By Mr. KENDALL of Pennsylvania: A bill (H. R. 12755) granting an increase of pension to Ellen G. Esken; to the Committee on Invalid Pensions.

By Mrs. LANGLEY: A bill (H. R. 12756) granting an increase of pension to Elizabeth Jett; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12757) granting an increase of pension to Nancy J. Picklesimer; to the Committee on Invalid Pensions.

By Mr. SWING: A bill (H. R. 12758) granting an increase of pension to Anna C. Hudson; to the Committee on Invalid Pensions.

By Mr. HAUGEN: Resolution (H. Res. 236) to pay Elizabeth Williams, widow of John Williams, six months' compensation and an additional amount not exceeding $250 to defray funeral expenses and last illness of the said John Williams; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

7443. By Mr. CRAIL: Petition of many citizens of Los Angeles County, Calif., favoring the passage of House bill 10574, affecting children's welfare; to the Committee on Education.

7444. By Mr. HUDSON: Petition of citizens of Lansing, Mich., opposing the calling of an international conference by the President of the United States or the acceptance by him of an invitation to participate in such a conference for the purpose of revising the present calendar, unless a proviso be attached thereto, definitely guaranteeing the preservation of the continuity of the weekly cycle without the insertion of blank days; to the Committee on Foreign Affairs.

7445. By Mr. LINDSAY: Petition of International Plate Printers, Die Stampers, and Engravers Union, No. 58, Brooklyn, N. Y., urging Rules Committee to order a special rule for the consideration of Senate bill 471, granting half holiday to Federal employees throughout the year; to the Committee on Rules.

SENATE

WEDNESDAY, *June 4, 1930*

(Legislative day of Thursday, May 29, 1930)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. As a quorum was not present when the Senate carried out its order for a recess, the first business will be to develop the presence of a quorum. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Allen	Gillett	La Follette	Shortridge
Ashurst	Glass	McCulloch	Simmons
Baird	Glenn	McKellar	Smoot
Barkley	Goff	McMaster	Steck
Bingham	Goldsborough	McNary	Steiwer
Blaine	Gould	Metcalf	Stephens
Blease	Greene	Moses	Sullivan
Borah	Hale	Norbeck	Swanson
Bratton	Harris	Norris	Thomas, Idaho
Brock	Harrison	Nye	Thomas, Okla.
Broussard	Hawes	Oddie	Townsend
Capper	Hayden	Overman	Trammell
Connally	Hebert	Patterson	Tydings
Copeland	Heflin	Phipps	Vandenberg
Couzens	Howell	Pine	Wagner
Cutting	Johnson	Ransdell	Walsh, Mont.
Deneen	Jones	Robinson, Ind.	Waterman
Fess	Kean	Robsion, Ky.	Watson
Frazier	Kendrick	Sheppard	Wheeler
George	Keyes	Shipstead	

Mr. SHEPPARD. I desire to announce that the Senator from Utah [Mr. KING], the Senator from South Carolina [Mr. SMITH], and the Senator from Florida [Mr. FLETCHER] are necessarily detained by illness.

The VICE PRESIDENT. Seventy-nine Senators have answered to their names. A quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Haltigan, one of its clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 6) to amend the definition of oleomargarine contained in the act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. HAUGEN, Mr. PURNELL, and Mr. ASWELL were appointed managers on the part of the House at the conference.

The message also announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H. R. 9985. An act to amend the act entitled "An act to amend the national prohibition act," approved March 2, 1929;

H. R. 10341. An act to amend section 335 of the Criminal Code;

H. R. 12056. An act providing for the waiver of trial by jury in the district courts of the United States; and

H. J. Res. 340. Joint resolution extending the time for the assessment, refund, and credit of income taxes for 1927 and 1928 in the case of married individuals having community income.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

H. R. 323. An act for the relief of Clara Thurnes;

H. R. 940. An act for the relief of James P. Hamill;

H. R. 970. An act to amend section 6 of the act of May 28, 1896;

H. R. 1186. An act to amend section 5 of the act of June 27, 1906, conferring authority upon the Secretary of the Interior to fix the size of farm units on desert-land entries when included within national reclamation projects;

H. R. 1559. An act for the relief of John T. Painter;

H. R. 12013. An act to revise and equalize the rate of pension to certain soldiers, sailors, and marines of the Civil War, to certain widows, former widows of such soldiers, sailors, and marines, and granting pensions and increase of pensions in certain cases; and

H. J. Res. 282. Joint resolution authorizing the appointment of an envoy extraordinary and minister plenipotentiary to the Union of South Africa.

PETITIONS

The VICE PRESIDENT laid before the Senate a telegram from the Grand Committee of Hungarian Churches and Societies of Bridgeport, Conn., signed by its president and secretary, stating that to-day, June 4, 1930, is the tenth anniversary of the treaty of Trianon, which dismembered Hungary, the 1,000-year-old state of central Europe, alleging that that treaty is contrary to all ideas of peace, liberty, and democracy, and urging a revision of the treaty as imperative if peace is to be preserved and economic progress assured, which was referred to the Committee on Foreign Relations.

Mr. GLENN presented petitions signed by approximately 1,600 citizens of the State of Illinois, praying for the passage of legislation for the exemption of dogs from vivisection in the District of Columbia or in any of the Territorial or insular possessions of the United States, which were referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES

Mr. HALE, from the Committee on Naval Affairs, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

H. R. 1160. An act for the relief of Henry P. Biehl (Rept. No. 804);

H. R. 1194. An act to amend the naval appropriation act for the fiscal year ended June 30, 1916, relative to the appointment of pay clerks and acting pay clerks (Rept. No. 805);

H. R. 2587. An act for the relief of James P. Sloan (Rept. No. 806);

H. R. 3801. An act waiving the limiting period of two years in Executive Order No. 4576 to enable the Board of Awards of the Navy Department to consider recommendation of the award of the distinguished flying cross to members of the Alaskan Aerial Survey Expedition (Rept. No. 807);

H. R. 5213. An act for the relief of Grant R. Kelsey, alias Vincent J. Moran (Rept. No. 808);

H. R. 9370. An act to provide for the modernization of the United States Naval Observatory at Washington, D. C., and for other purposes (Rept. No. 809);

H. R. 9975. An act for the relief of John C. Warren, alias John Stevens (Rept. No. 810); and

H. R. 10662. An act providing for hospitalization and medical treatment of transferred members of the Fleet Naval Reserve and the Fleet Marine Corps Reserve in Government hospitals without expense to the reservist (Rept. No. 811).

Mr. SWANSON, from the Committee on Naval Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

H. R. 851. An act for the relief of Richard Kirchhoff (Rept. No. 815); and

H. R. 1155. An act for the relief of Eugene A. Dubrule (Rept. No. 816).

Mr. BROCK, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

S. 1458. A bill for the relief of the State of Florida (Rept. No. 812); and

H. R. 6348. An act donating trophy guns to Varina Davis Chapter, No. 1980, United Daughters of the Confederacy, Macclenny, Fla. (Rept. No. 813).

Mr. GLASS, from the Committee on Banking and Currency, to which was referred the bill (S. 4287) to amend section 202 of Title II of the Federal farm loan act by providing for loans by Federal intermediate credit banks to financing institutions on bills payable and by eliminating the requirement that loans, advances, or discounts shall have a minimum maturity of six months, reported it with amendments and submitted a report (No. 817) thereon.

Mr. WALSH of Montana, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 4318) to amend the act entitled "An act to permit taxation of lands of homestead and desert-land entrymen under the reclamation act," approved April 21, 1928, reported it with amendments and submitted a report (No. 818) thereon.

REPORT OF POSTAL NOMINATIONS

Mr. PHIPPS, as in executive session, from the Committee on Post Offices and Post Roads, reported sundry post-office nominations, which were placed on the Executive Calendar.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. BINGHAM:

A bill (S. 4629) authorizing an appropriation for the purchase of the Vollbehr collection of incunabula; to the Committee on the Library.

By Mr. McNARY:

A bill (S. 4630) authorizing the appointment of Henry W. Hall, jr., as a second lieutenant in the Regular Army; to the Committee on Military Affairs.

By Mr. TYDINGS:

A bill (S. 4631) for the relief of George F. Conlee (with accompanying papers); to the Committee on Military Affairs.

By Mr. HALE:

A bill (S. 4632) granting an increase of pension to Melinda A. Smiley (with accompanying papers); to the Committee on Pensions.

By Mr. ODDIE:

A bill (S. 4633) granting a pension to Bert McClelland; to the Committee on Pensions.

By Mr. ROBINSON of Indiana:

A bill (S. 4634) granting an increase of pension to Ella Jackson (with accompanying papers); and

A bill (S. 4635) granting an increase of pension to Mary J. Westfall (with accompanying papers); to the Committee on Pensions.

By Mr. ROBSION of Kentucky:

A bill (S. 4636) to authorize the Secretary of War to resell the undisposed of portion of Camp Taylor, Ky., approximately 328 acres, and to also authorize the appraisal of property disposed of under authority contained in the acts of Congress approved July 9, 1918, and July 11, 1919, and for other purposes; to the Committee on Military Affairs.

By Mr. STEIWER:

A bill (S. 4637) authorizing the payment of expenses connected with suits pending in the Court of Claims from tribal funds of the Klamath Indians; to the Committee on Indian Affairs.

By Mr. SHEPPARD:

A bill (S. 4638) to amend an act entitled "An act to amend the national prohibition act as amended and supplemented," approved March 2, 1929, by applying its penalties to the purchase of intoxicating liquor for beverage purposes; to the Committee on the Judiciary.

A bill (S. 4639) to authorize the acquisition of 1,000 acres of land, more or less, for aerial bombing range purposes at Kelly Field, Tex., and in settlement of certain damage claims; to the Committee on Military Affairs.

By Mr. BAIRD:

A bill (S. 4640) to construct a tunnel under the Delaware River between the State of Pennsylvania and the State of New Jersey; to the Committee on Commerce.

By Mr. SIMMONS:

A bill (S. 4641) for the relief of Lueco R. Gooch; to the Committee on Claims.

By Mr. ODDIE:

A bill (S. 4642) for the relief of the Crystal Land Co.; to the Committee on Claims.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following bills and joint resolution were severally read twice by their titles and referred as indicated below:

H. R. 9985. An act to amend the act entitled "An act to amend the national prohibition act," approved March 2, 1929;

H. R. 10341. An act to amend section 335 of the Criminal Code; and

H. R. 12056. An act providing for the waiver of trial by jury in the district courts of the United States; to the Committee on the Judiciary.

H. J. Res. 340. Joint resolution extending the time for the assessment, refund, and credit of income taxes for 1927 and 1928 in the case of married individuals having community income; to the Committee on Finance.

ADDITION OF LANDS TO BOISE NATIONAL FOREST

Mr. BORAH submitted an amendment intended to be proposed by him to the bill (H. R. 4189) to add certain lands to the Boise National Forest, which was referred to the Committee on Public Lands and Surveys and ordered to be printed.

PURCHASE OF INTOXICATING LIQUORS AS A BEVERAGE

Mr. SHEPPARD submitted an amendment intended to be proposed by him to the bill (S. 1827) amending the national prohibition act so as to prohibit the purchase of intoxicating liquors as a beverage, which was referred to the Committee on the Judiciary and ordered to be printed.

AMENDMENT TO SECOND DEFICIENCY APPROPRIATION BILL

Mr. BLEASE submitted an amendment proposing to appropriate $805,561 for carrying out the provisions of the act entitled "An act for the relief of the State of South Carolina for damage to and destruction of roads and bridges by floods in 1929," approved June 2, 1930, intended to be proposed by him to the second deficiency appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

NONTAXABLE INDIAN LANDS

Mr. STEIWER submitted the following resolution (S. Res. 282), which was referred to the Committee on Indian Affairs:

Resolved, That the Committee on Indian Affairs, or any duly authorized subcommittee thereof, is authorized to make an investigation of the relationship between the Federal Government and the governments of the several States and political subdivisions thereof in which there are located Indian reservations or unallotted Indian tribal lands, or any other Indian lands which are not subject to taxation by such States or political subdivisions, with a view to developing a plan by which the United States may make a fair and equitable contribution toward the expenses of carrying on governmental activities in said States and political subdivisions.

For the purposes of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold hearings, to sit and act at such times and places during the sessions and recesses of the Senate in the Seventy-first and succeeding Congresses until the final report is submitted, to employ such clerical and other assistants, to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony and make such expenditures, as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $, shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the committee or, if any subcommittee is authorized to act in the premises, then by the chairman of such subcommittee.

CESSION OF LANDS BY GOVERNMENT OF MEXICO

Mr. BRATTON. I submit a resolution and ask for its immediate consideration.

The VICE PRESIDENT. Let it be read.

The resolution (S. Res. 283) was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That Senate Resolutions No. 291, agreed to January 12, 1929, and No. 329, agreed to February 26, 1929, authorizing and directing the Committee on Public Lands and Surveys, or any subcommittee thereof, to investigate the cession of lands by the Government of Mexico to the United States and to report its findings and recommendations regarding same to the Senate hereby are continued in full force and effect until the end of the present Congress.

THE CASE OF JUDGE JOHN J. PARKER

Mr. BLEASE. Mr. President, I ask unanimous consent to have printed in the RECORD certain editorials relative to the Parker case, which I send to the desk.

The VICE PRESIDENT. Without objection, leave is granted.

The editorials are as follows:

[From the Philadelphia Record, Monday, May 19, 1930]

URGES NEGROES TO "PUNISH" GRUNDY FOR BACKING PARKER

"Any negro who votes for Senator GRUNDY in the primaries doesn't deserve the rights of citizenship."

With this exhortation, Walter White, acting secretary of the National Association of Colored People, yesterday urged 900 negroes to "punish GRUNDY for his vote to confirm the nomination of Judge Parker for the Supreme Court."

White addressed a mass meeting in the Union Baptist Church, Nineteenth and Fitzwater Streets.

"If the negroes are to be respected," he declared, "and their demands heeded, we must make good on the threats we made during the fight against Parker. If we fail in our promised retribution on the Senators who voted to seat him, we will possess as little prestige as the American Federation of Labor, whose pleas, threats, and demands always have gone unheeded."

He also charged that many Senators during the course of the Senate debate on Parker were told to decide between "the favor of the White House or the favor of the negroes."

The meeting was the first step in the drive by the local branch of the association for 5,000 members.

[From the Afro-American, Baltimore, Saturday, May 17, 1930, the Nation's biggest all-negro weekly]

HOWARD MANN'S MEMORY CAUSED PARKER'S DEFEAT

DURHAM, N. C. (special).—The long memory of a Howard University graduate caused the defeat of Judge Parker for the Supreme Court.

When Parker was first nominated for the high court, the N. A. A. C. P. sent out telegrams to Carolina leaders asking them concerning Parker's record and his attitude on the negro question.

The Howard man wired back that Parker ran for governor 10 years before and said something to offend negroes. "Can you get the evidence?" wired the N. A. A. C. P.

Next morning a clipping from the Greensboro (N. C.) Daily News, 10 years old, was in the office of the N. A. A. C. P.

That clipping cost Parker 10 votes. He lost by 2 votes—41 to 39.

WALTER WHITE IS HERO OF JUDGE PARKER'S DEFEAT—N. A. A. C. P. ACTING SECRETARY DIRECTED LOBBY FROM NEW YORK—HOOVER DESERTED—MOTON, DE PRIEST, HAWKINS TURNED DOWN PLEAS

WASHINGTON.—It is rarely that an administration has ever been pushed to such an extremity as that to which the recent Parker case carried President Hoover.

On the surface, the White House fight to force Parker over on the Senate moved with apparent official precision.

Underneath were the desperate and sometimes despairing efforts of presidential machinery to get away from the brick wall which everywhere confronted it. The "wild men" of the Senate, as Secretary Hyde called them, had their way and snowed Mr. Hoover under.

A large share of the opposition to Mr. Hoover was due to the long-standing hostility of Senate liberals, led by Senator BORAH and Senator NORRIS, but while the Senate talked "labor," it thought "negro," for behind the scenes the National Association for the Advancement of Colored People carried on a lobby which met every move President Hoover made with a smarter one.

WHITE STEALS STAGE CENTER

In the very beginning Walter White stole the center of the stage. At the hearing of the Senate Judiciary Committee his name was called last among the witnesses. The committee was almost ready to adjourn when he sent his card up, and with a sigh the Senators agreed to hear him.

"Walter White" was the name called, and the committee gasped for the whitest man in the room, with light hair, blue eyes, and a tailored suit that may have come from Bond Street, answered the roll.

As the committee prepared to take the "cullud brother" for a ride, Mr. White again took the offensive. He offered to find instances of disfranchisement in North Carolina for Senator OVERMAN, and recalled to Senator BORAH a case in which Clarence Darrow licked him.

Since what was being said was recorded stenographically for a printed report, gentlemen of the committee gave up their proposed gallop for the day.

BACK TO NEW YORK

That over, Mr. White went back to New York. The association's lobby against Judge Parker was carried on strangely enough from the home office.

In Washington two ex-North Carolina governors and Judge Parker himself buttonholed Senators, and, like Amos 'n' Andy, campaigned in person, but it did no good.

HOOVER CRY TO DEMOCRATS

The Hoover cry to southern Senators, "Are you going to have it said that negroes dictated a Supreme Court appointment?" was met by the National Association for the Advancement of Colored People's appeal to the same Dixie lawmakers: "Are you going to help strengthen the Republican Party in North Carolina?"

ONLY TWO PARKER PAPERS

Hoover leaders scoured the country and could find but 2 out of 200 negro weekly papers in favor of Parker.

Strangely enough, both of them are run by women. In Richmond, Mrs. Maggie Walker's St. Luke Herald wobbled considerably, and finally came over to the anti-Parker side. In Topeka, Kans., the Plaindealer, edited by Thelma Chiles Parker, congratulated Senator ALLEN on his pro-Parker stand.

Newspapers in Parker's own State and everywhere else except Virginia and Kansas crusaded against Parker week after week.

JOHN R. HAWKINS

President Hoover treated the men who ran his campaign so shabbily that he got no comfort from them, and no Parker indorsement even from John R. Hawkins, his campaign manager for the colored wing.

In fact, John R. was then in the act of calling a widespread protest meeting against the Hoover policy of dismissing the colored Republican division. Mr. Hawkins offered to continue giving his services free of charge, but the President said "no more money," and turned to Tuskegee with a request that Principal R. R. Moton relieve the pressure by a letter of indorsement.

DOCTOR MOTON MAKES GOOD

To his everlasting credit, Doctor Moton made good. The man who faced the Ku-Klux Klan in his own office and defied them to make good their threat to burn down Tuskegee Institute, the man who challenged "Jackass" Smuts of South Africa, while New Yorkers sat in their seats, the man who accepted leadership of the President's educational campaign to Haiti, wired the N. A. A. C. P., "I have not indorsed Judge Parker." He hadn't. He had turned down the White House request.

LEADERS TURN THEIR BACKS

Everywhere Mr. Hoover had turned it was the same thing. He had as much chance of securing aid from Perry Howard (Mississippi), Ben Davis (Georgia), Bob Church (Tennessee), Bill McDonald (Texas), Walter Cohen (Louisiana), Finley Wilson (District of Columbia), T. Gillis Nutter (West Virginia), or his brother, Isaac (New Jersey), as the average negro has of voting in North Carolina. They turned their backs and let the President stumble down to an ignominious defeat.

DE PRIEST IN SENATE

Congressman OSCAR DE PRIEST (Illinois), who southern newspapers declared should stand by the President because of the White House tea invitation to Mrs. De Priest last winter, went over to the Senate every day and campaigned for votes against Parker.

In the last analysis, Mr. Hoover's colored friends had dwindled to two college presidents, James E. Shepard, of North Carolina State, and A. T. Atkins, of Winston-Salem (N. C.) Teachers College. They were joined by a white man, Dr. G. L. Peacock, white president of colored Shaw University, to constitute an all-educational trio, whose position to-day nobody envies.

BLEASE BLAMES NEGRO FOR PARKER DEFEAT—SOUTH CAROLINA SENATOR HOLDS POST-MORTEM ON SENATE VOTE FRIDAY—HATS OFFERED—BLEASE WOULD REWARD NEGROES WHO FAVORED PARKER

WASHINGTON.—Holding a post-mortem on the defeat of Judge John J. Parker, for confirmation as Associate Justice of the Supreme Court, Friday, Senator COLE. BLEASE (Democrat, South Carolina) read an editorial into the CONGRESSIONAL RECORD declaring that it was negro opposition which caused eight regular Republicans of the Senate to desert the administration and vote against Parker.

BLEASE himself admitted that this margin was offset by four or five Democrats who went over to the administration because of negro opposition.

"But the drive against Parker would probably have been within two votes as strong even had organized labor not opened its mouth."

GAVE THE SOUTH HELL

Senator BLEASE continued by saying:

"On the street car on the way to my hotel last evening there were two colored men sitting right behind me. One of them made the remark to the other, 'Well, we gave the South hell to-day.' The other negro asked how, and the other replied, 'By beating Parker.' A lady sitting beside me touched my arm and said, 'Did you hear that?' I said, 'Yes; but I can not resent it, because it is true.'"

On this statement Senator TRAMMELL differed. Gaining the floor, he answered.

"Mr. President, I have never been very much in favor of holding post-mortems, but in regard to the statement of my friend from South Carolina [Mr. BLEASE], I will say that he must have been on a different street car from the one on which I was a passenger.

"On the street car on which I was traveling yesterday afternoon after the vote was taken there was great despondency on the part of several people of the negro race because Judge Parker had been de-

feated. They were despondent at the rejection of his nomination because he had declared unconstitutional the so-called segregation act in Richmond, Va., segregating the whites and the negroes, and because some issue of that kind may at some time come before the Supreme Court.

"It is merely a viewpoint of the negroes; some were against him and some were for him. I think they were pretty evenly divided."

WOULD BUY HATS

BLEASE leaped to his feet and answered that if Senator TRAMMELL could find the negroes who favored Parker he would buy each a hat.

[From the Afro-American, Baltimore, Saturday, May 17, 1930, the Nation's biggest all-negro weekly]

WHO IS YOUR FRIEND?

When Maryland's senior Senator, MILLARD TYDINGS, voted "nay" on the Parker confirmation, he uttered a word that the colored voters of Maryland should remember in the coming elections.

Back of Senator TYDINGS is the Democratic Party of this State which selected him for nomination and supported him for election.

Without Senator TYDING'S vote the Supreme Court would now have as a member a North Carolina Federal judge who has—to use the words of Mr. Oswald Garrison Villard—"publicly evidenced his readiness to deny to an entire group of our fellow Americans participation in elections and in administration of the country."

With the proposition to place such a man as Judge Parker on the bench of the Supreme Court, to which questions affecting the liberty of and pursuit of happiness by colored people are constantly referred, we saw in Judge Parker another Roger B. Taney crying aloud, "The negro has no rights which the white man is bound to respect."

The proposal stirred the Nation; and under the leadership of the National Association for the Advancement of Colored People, the people by resolution and by telegram apprised their Senators of their sentiments.

In this expression of opinion and entreaty to vote Parker down, Maryland's ministers, organizations, and leading citizens addressed both Senator TYDINGS, who is a Democrat, and Senator PHILLIPS LEE GOLDSBOROUGH, who is a Republican.

Senator GOLDSBOROUGH—who, to use the language of the White House, "values the favor of the President more than the wishes of thousands of negro voters" who helped elect him—turned his back and voted for Judge Parker.

Senator TYDINGS consulted with Democratic leaders of the State and voted Parker down.

There is no question but that Senator TYDINGS saved Maryland, and in so doing the Nation. For a change of 1 vote would have resulted in the confirmation of Parker.

The Afro-American has repeatedly pointed out that in the question of politics the issue is not Democratic or Republican, but it is the man.

When the Democrats give us a man like Senator TYDINGS, they are our friends.

When Republicans give us a man like Senator GOLDSBOROUGH, they are our enemies.

THE PARKER VOTE

One additional word ought to be spoken about the case of lily-white Judge John J. Parker, of North Carolina, whom the Senate refused to confirm for Associate Justice of the Supreme Court.

Judge Parker was defeated by a combination of 22 Republicans and 26 Democrats. For the most part these Democrats and Republicans constitute the liberal, progressive element of the upper House, referred to by Secretary of Agriculture Hyde in a recent public address as "those wild men of the Senate."

The language—indecorous and inelegant, but nevertheless descriptive—was probably suggested by President Hoover, although Mr. Hoover was politician enough not to give voice to it himself.

Their wildness undoubtedly consisted in their breaking away from the presidential leading strings and voting down an unfit candidate for the Supreme Court. By so doing they gave Mr. Hoover the worst defeat of his administration; and unless he is slow to learn, the President will not play politics any further with Supreme Court appointees.

The Parker vote was not due to deference to the negro vote alone, nor to the labor vote alone, but to the combination of these influences, aided by Democrats like Senators SHEPPARD, TRAMMELL, HEFLIN, and GEORGE, whose main interest was to prevent what they feared would result in the strengthening of the Republican Party in the South.

It was to be expected that liberal Republican Senators from Northern and Western States, like NORRIS, NYE, BLAINE, BORAH, FRAZIER, HOWELL, SCHALL, LA FOLLETTE, and JOHNSON, would stand for the rights of labor.

It was also to be expected that Republican Senators like DENEEN (Illinois), GLENN (Illinois), ROBINSON (Indiana), CAPPER (Kansas), ROBSION (Kentucky), and PINE (Oklahoma) would stand firm for the rights of the negro.

But to these must be added Democratic Senators like TYDINGS (Maryland), WAGNER (New York), BROCK (Tennessee), BARKLEY (Kentucky), COPELAND (New York), MCKELLAR (Tennessee), and WALSH (Massachusetts), who, though Democrats, have a consequential number of negro constituents.

To the Afro-American this seems to be the most striking feature of the Parker defeat; namely, the willingness of Democrats in Northern and border States to speak out for negro suffrage, as did Senator WAGNER, and when the time comes to back up their talk with their votes.

Another surprising feature of the Senate vote was the inability of thousands of colored voters in Ohio, Pennsylvania, Delaware, New Jersey, and West Virginia to get either one of their two Senators to vote against Parker.

These gentlemen doubtless value the favor of the White House more than the good will of their colored constituents, a subject of which they will very probably hear more at the next primary election.

[From the Tampa Bulletin, May 10, 1930]

JUDGE JOHN J. PARKER NOT SENATE'S CHOICE

Judge J. J. Parker, who was nominated by President Hoover to be Associate Justice of the United States Supreme Court, failed of confirmation in the Senate Wednesday. The jurist had been opposed by the labor unions and by the National Association for the Advancement of Colored People. The labor unions opposed him because of his decision in the "yellow-dog" case and the National Association for the Advancement of Colored People opposed him for his utterances on the negro question some 10 years ago when the judge was campaigning for the governorship of his State—North Carolina. The action of the Senate gives general satisfaction to all of us. President Hoover stood hard by his selection to the end. It is thought by some that he will continue to stand by him and make a "recess" appointment. But we do not think the President will take such a step. The party can not risk so much just to get North Carolina. Maybe this rebuke of the learned judge will prove helpful to him, and at the same time serve as a warning to others. They must see from this that there will be a reckoning day.

[From the Tampa Bulletin, Saturday, May 17, 1930]

PARKER'S DEFEAT BEGINNING OF NEGRO FIGHT FOR VOTE—AVALANCHE OF CONGRATULATIONS POUR IN ON N. A. A. C. P. NATIONAL OFFICE

NEW YORK, May 9.—By a margin of 2 votes—41 to 39—after one of the most bitter and acrimonious struggles ever seen in the United States Senate, with galleries crowded and Members of the House of Representatives standing three deep awaiting the outcome, the Senate on Wednesday afternoon rejected the nomination by President Hoover of Judge John J. Parker to be Associate Justice of the United States Supreme Court.

The outcome of this struggle, which has resulted in a crushing rebuke to the Hoover administration's lily-white policy, is generally credited to the leadership of the National Association for the Advancement of Colored People, which first procured and published Judge Parker's anti-negro utterance made in a political speech while candidate for Governor of North Carolina in 1920. On the basis of that utterance the N. A. A. C. P. communicated with all its branches, kept in constant touch by telegraph and long-distance telephone with politically influential friends in Washington and elsewhere, maintained a day-to-day check for a period of two weeks on the shifting attitudes of United States Senators, and conducted an unremitting press campaign.

Southern white editors almost without exception have admitted that without the N. A. A. C. P. opposition Judge Parker would probably have been confirmed. The N. A. A. C. P. feels that the Parker fight is a crushing blow to the Hoover administration policy by which it was sought to build up the Republican Party in the South through offering sops to "lily whites," or, in plain words, antinegro Republicans. Further than this, the association feels that a long step has been taken in furthering the negro's national fight for full recognition as a citizen and as a voter. A statement issued by the N. A. A. C. P. covering the present situation signed by Walter White, acting secretary, is as follows:

"The National Association for the Advancement of Colored People is proud of the way colored people throughout the United States met the critical moment and acted as a unit. With few and conspicuous exceptions, even in the South and under serious difficulties, colored people stood firm against the man who had advocated in 1920 virtually depriving them of their votes. The result of the fight, a victory in the Senate and a clear-cut defeat of the Hoover administration, is the most significant political demonstration the American negro has ever engaged in.

"We are elated and grateful to colored editors, and to all those organizations and individuals who so tirelessly and faithfully upheld our hands throughout this gruelling contest. But the victory, decisive though it is, leaves much to be done. In reality this victory is only a beginning. First of all, colored citizens have before them the task of thanking their friends and dealing with their opponents.

"Negroes have already shown southern demagogues with national ambitions that it no longer pays to bait the negro for political purposes. They have also shown the Nation that the negro can carry on a successful, sustained, uncompromising political fight and keep it on the highest ethical plane, in defense of citizenship and human rights. It remains to

demonstrate that colored people have a political memory." In this connection, and for the information of all colored editors and their readers the N. A. A. C. P. declared the following lists should be kept in sight and in mind until after the next elections:

Of those Senators who voted for Parker, the following are to stand for reelection during the coming fall and should be uncompromisingly opposed by all colored voters: PHIPPS, of Colorado; HASTINGS, of Delaware; STECK, of Iowa; ALLEN, of Kansas; RANSDELL, of Louisiana; GOULD, of Maine; GILLETT, of Massachusetts; HARRISON, of Mississippi; KEYES, of New Hampshire; BAIRD, of New Jersey; SIMMONS, of North Carolina; MCCULLOCH, of Ohio; GRUNDY, of Pennsylvania; METCALF, of Rhode Island; BLEASE, of South Carolina; GLASS, of Virginia; GOFF, of West Virginia; and SULLIVAN, of Wyoming.

The terms of the other Senators who supported or were paired for Parker expire as follows, and colored voters should carefully bear in mind the names and dates: BINGHAM, of Connecticut, 1933; DALE, of Vermont, 1933; FESS, of Ohio, 1935; GOLDSBOROUGH, of Maryland, 1935; GREENE, of Vermont, 1935; HALE, of Maine, 1935; HATFIELD, of West Virginia, 1935; HEBERT, of Rhode Island, 1935; JONES, of Washington, 1933; KEAN, of New Jersey, 1935; ODDIE, of Nevada, 1933; PATTERSON, of Missouri, 1935; REED, of Pennsylvania, 1935; SHORTRIDGE, of California, 1933; SMOOT, of Utah, 1933; THOMAS, of Idaho, 1933; TOWNSEND, of Delaware, 1935; WALCOTT, of Connecticut, 1935; WATERMAN, of Colorado, 1933; WATSON, of Indiana, 1933; BROUSSARD, of Louisiana, 1933; OVERMAN, of North Carolina, 1933; STEPHENS, of Mississippi, 1935; SWANSON, of Virginia, 1935; NORBECK, of South Dakota, 1933; MOSES, of New Hampshire, 1933; FLETCHER, of Florida, 1933; KING, of Utah, 1935; SMITH, of South Carolina, 1933.

"Any negro is a traitor to the race who votes for any Senator who voted for Parker," declared Mr. White. "Let us not forget the vote on Parker for on our concerted action at the next elections which follow it depend the effectiveness of the American negro's future campaign in behalf of full emancipation as an American citizen."

N. A. A. C. P. APPEALS FOR FUNDS

The first to congratulate the national office of the N. A. A. C. P. on the Parker victory was Dr. W. G. Alexander, of Orange, N. J., president of the National Medical Association, who promptly upon hearing of the vote in the Senate jumped into his automobile and drove into the national office at 69 Fifth Avenue, New York, pulling out $25 in bills as his contribution toward the expenses of the fight.

The N. A. A. C. P. estimates that the cost of the Parker fight, which was carried on day and night, will be upward of $2,000. Telegraph expenses alone during April amounted to $301.31 and long-distance telephone calls approximated $100 during that month. In addition to this the N. A. A. C. P. had heavy extra mimeographing, multigraphing, and printing bills, messenger-service charges, photostating, clipping-service charges, as well as the traveling expenses of its staff who addressed mass meetings in Chicago, Detroit, Cleveland, Philadelphia, and other cities.

"We have spent more money than we had in this fight," declared Mr. White, "counting upon our friends and members to pay the bills. It was not a time when we could stop to figure the cost of telephone or telegraph. Even as it was we were gravely hampered by lack of funds. I say it deliberately, the cause of the Negro was almost sacrificed for want of a few dollars. If we had had the paltry sum of $1,500 to spend for advertising at a time when the motives of the N. A. A. C. P. were being publicly misrepresented and the facts in the Parker fight were being distorted, we could have made a tremendous impression through the newspapers. But we did not have the $1,500. So we could not advertise, sorely as such action was needed. Remember, the N. A. A. C. P., whose staff worked day and night and who won what is perhaps the major political victory ever won by negroes, did not have the necessary $1,500 to advertise, and the association is now in debt because of its expenditures during the struggle.

"Now, colored people for one reason or another in the past may have differed with the N. A. A. C. P. Perhaps we have made mistakes. That is human. But there is no other organization which conceivably could have made the Parker fight. And that fight certainly and indisputably demonstrates the absolute need for the N. A. A. C. P. There is one way in which the colored and white friends of the N. A. A. C. P. can express their appreciation of work done. We are receiving shoals of congratulatory telegrams and letters. Of course, we appreciate and are delighted to have these expressions of good will. But we need money. We need money badly and we need it right now.

"Let all those who feel the N. A. A. C. P. has done something worth while and deserves support contribute at once and contribute to the limit of their means to the Moorfield Storey-Louis Marshall campaign, which is now under way. Give and give at once, either through the local branches of the N. A. A. C. P. or to the national office at 69 Fifth Avenue, New York."

[From the Tampa Bulletin, Saturday, May 17, 1930]

MAJOR VICTORIES FOR NEGRO IN YEAR TO BE REVIEWED, SPRINGFIELD

NEW YORK, May 9.—Major victories won in behalf of the negro during the year since June, 1929, will be reviewed at the Twenty-first Annual Conference of the National Association for the Advancement of Colored People in Springfield, Mass., June 25 to July 1, it was announced to-day.

Among the victories won since the last annual conference are the following:

1. Defeat of the nomination to the United States Supreme Court of Judge John J. Parker, of North Carolina, who in a 1920 political speech opposed negroes voting. This victory is the most imposing political demonstration ever staged by the negro in the United States and is the impressive forefront of a sharp attack not only upon the administration's lily-white policy but upon nullification of the fourteenth and fifteenth amendments to the Constitution.

2. Church Jim Crow: Repudiation by responsible officers in the Protestant Episcopal and Catholic Churches of color discrimination.

3. Sport color bar: Severe criticism of New York University for attempted discrimination on the football field and of the United States Lawn Tennis Association for barring two colored players from national junior indoor tournament.

4. Cuban immigration: Denial to National Association for the Advancement of Colored People by Cuban Government officials that American negroes touring Caribbean would be prevented from entering Cuba.

5. New Orleans policeman (white) sentenced to death for murdering young colored girl who resisted his advances.

6. Defeat in court of Richmond segregation ordinance and of Virginia white primary law.

7. Freeing of Ben Bess, South Carolina farmer, who had served 13 years of a 30-year sentence on a white woman's perjured testimony.

8. Freeing of Turley Wright after his conviction of assault upon perjured testimony of an aged woman and her two granddaughters.

[From the Richmond Planet, Richmond, Va., Saturday, May 10, 1930]

UNITED STATES SENATE REJECTS JUDGE PARKER—HOT FIGHT WAGED BY NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE INSTRUMENTAL IN CAUSING HIS DEFEAT—PARKER LOSES PLACE ON SUPREME BENCH BY CLOSE MARGIN OF ONE VOTE—AMERICAN FEDERATION OF LABOR IN FIGHT

By C. V. Kelley, president Richmond branch, National Association for the Advancement of Colored People

The bitter fight against the confirmation of Judge John J. Parker, circuit judge of North Carolina, as Associate Justice of the United States Supreme Court came to an end Wednesday in the Senate, when that body voted 41 to 39 against his confirmation.

Immediately following his appointment by President Hoover, the National Association for the Advancement of Colored People and the American Federation of Labor began well-organized attacks on the fitness of the judge to sit on the Supreme Bench. The National Association for the Advancement of Colored People unearthed some utterances made by Judge Parker in the 1920 gubernatorial campaign in North Carolina, when Parker was candidate for that post. It is declared that he said that negroes were not yet ready and fit for the responsibilities of political participation and further alleged that he stated "If my election can be attributed to one single negro vote, I shall immediately resign."

The American Federation of Labor attacked the judge's ruling in the Red Jacket Mining Co. case, when he upheld an injunction restraining the United Mine Workers from soliciting membership in the unions. The most bitter fight that has ever been waged on a presidential appointee took place all over the country and consumed 10 days of debate in the United States Senate. Party lines were split. The close margin by which the appointee was defeated indicates the intensity of the fight; only one more vote for Parker being sufficient to confirm him, as Vice President Curtis had declared himself as a supporter of the administration's appointment and would have cast his vote for Parker in case of a tie. The defeat of Parker can be safely attributed to the organized attack of the National Association for the Advancement of Colored People, with Walter White, assistant secretary, leading the fight.

THE PARKER CASE

By William C. Brown

The Parker case may be the last straw between the lily whites and the negroes in the South. It is no secret that the lily whites are very indignant at the opposition that southern negroes have offered through the National Association for the Advancement of Colored People to confirmation of Judge John J. Parker, as the administration nominee for the Supreme Court seat left vacant by the death of Judge Sanford.

But after all it may be the best thing. Negroes here in the South have gone along in the past with heavy hearts at the treatment accorded them by the white leaders, and many have lost interest in suffrage, not as politicians but as humble citizens. It takes lots of enthusiasm to vote year after year for party that will countenance the flying colors of racial prejudice for simply political expediency.

The leaders come to you year after year saying, "Well, you know that it is impossible to win an election in the South with the negro showing any prominence in the Republican Party."

"Talk low until we get in, and we shall fix things like we want them." The patience of the negro has just about exhausted. It is now becoming a plain fact that negroes are not wanted in the Republican Party here in the South except around election day for his vote.

In Virginia there is apparent at present a split on the horizon in the ranks, at least, in leadership. The time is increasingly short when it will be seen whether Hon. C. Bascom Slemp or Hon. Henry W. Anderson will lead the destinies of the party. If Anderson wins out the negro is doomed. If Slemp wins out there will be at least a point of contact. But it seems to us that the lately organized National Negro Republican League is the only hope—if it will carry a spirit of independence. But if it is just another group of politicians to gain the advantage they will find out that while the negro loves the Republican Party, he is willing to vote for any party that will give him some encouragement and hope. In certain sections of the country the Democrats are offering just such inducements. In States that will hold the elections this fall there is almost certain to be a drift to the Democratic Party. The young negro is getting tired being buncoed by his so-called leaders who are willing to sell out for a "mess of pottage." The idea that the negro is growing radical is but propaganda to divert the public mind from the real issues.

"Youth must be served."

[From the Richmond Planet, Richmond, Va., Saturday, May 17, 1930]

SENATE DEFEAT OF PARKER, 41 TO 39, BEGINNING OF NEGRO FIGHT FOR VOTE

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"Negroes have already shown southern demagogues with national ambitions that it no longer pays to bait the negro for political purposes. They have shown the Nation that the negro can carry on a successful, sustained, uncompromising political fight and keep it on the highest ethical plane, in defense of citizenship and human rights. It remains to demonstrate that colored people have a political memory." In this connection, and for the information of all colored editors and their readers the National Association for the Advancement of Colored People declared the following lists should be kept in sight and in mind until after the next elections.

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"Any negro is a traitor to the race who votes for any Senator who voted for Parker," declared Mr. White. "Let us not forget the vote on Parker, for on our concerted action at the next election and at the elections which follow it, depend the effectiveness of the American negro's future campaign in behalf of full emancipation as an American citizen."

NEGRO JUDGES ASSURED IN HARLEM BY ELECTION

NEW YORK CITY.—When Gov. Franklin Roosevelt signed on April 21 last the bill of Assemblyman Francis E. Rivers creating a new, and tenth municipal court district with two judges, a milestone was achieved for the 300,000 negroes of Harlem.

The writing of this measure into the laws of the State of New York was the culmination of a 10-year struggle by the colored group of Harlem. The present seventh municipal court district extends from One hundred and tenth Street to Spuyten Duyvil and from Fifth Avenue to the Hudson River, and on the basis of the 1925 census has a population of 453,000.

The new law splits off the tenth municipal court district with the following boundaries: One hundred and tenth Street on the south, Fifth Avenue on the east, One hundred and fifty-fifth Street on the north, and the westerly boundary as follows: South on St. Nicholas Avenue to One hundred and twenty-fifth Street, easterly on One hundred and twenty-fifth Street to Eighth Avenue, south on Eighth Avenue to One hundred and fourteenth Street, east on Eleventh Street to Seventh Avenue, and south on Seventh Avenue to One hundred and tenth Street, and about 75 per cent of its residents are colored. It is practically certain that the two candidates on the Republican ticket will be colored, and it is possible that the same will be true of the two candidates on the Democratic ticket.

The negro acquired leadership of the Republican Party organization in both the nineteenth assembly district and in the easterly portion of the twenty-first assembly district last year, and that was followed by the election in each of these districts of colored aldermen and it resulted for the first time in having two colored men in the assembly at Albany.

The two judges in this tenth municipal court district will not be appointed. They will be elected in the general election on November 4, 1930. It is expected that the opportunity of the colored group to elect its first negro municipal court judges in the eastern portion of the country will cause unparalleled registration of the racial group this fall.

[From the Savannah Hawkeye, Pembroke, Ga., May 15, 1930]

DEFEAT OF PARKER DEADLY BLOW TO SOUTHERN WHITE SUPREMACY

The southern Democratic Senators who voted against the confirmation of the nomination of Judge Parker to go on the Supreme Court Bench of the United States have delivered an unpardonable blow to the South and jeopardized white supremacy.

Our own Senator, W. J. HARRIS, rushes into print and undertakes to explain his colossal blunder.

Senator HARRIS, in voting against the confirmation of the Parker nomination, has done the State and the white people of the entire South more harm than he will be able to recompense with good in 20 years.

The Senator gives one reason, and one only, in a belabored attempt to justify his great blunder.

He says, "Judge Parker is not a lawyer of outstanding ability."

Judge Parker's ability to fill the place was certified to by the bar associations of both North and South Carolina, by the Senators from both of these States, by 12 presiding Federal circuit judges, and by the Attorney General of the United States.

In the defeat of Judge Parker we lose a southern man on the bench of the highest court in the land, although a Republican, yet a man who stands for white supremacy.

As a result we get a Pennsylvania Yankee, a wet, and a negro lover, a man who owes his elevation to that bunch of mean and sassy niggers like OSCAR DE PRIEST and his kind.

So our generalissimo swaps off a North Carolina prohibition advocate, a southern white man, and a Christian gentleman, for a Pennsylvania negro-loving Yankee and its wettest of the wets.

This man is wetter than Raskob.

Judge Parker was defeated on account of his stand on the negro question—he took the position that it was wrong for the Republican administration to place negroes in official positions where they came in contact with white men and white women.

This brought down on Judge Parker's head the wrath of every mean, sassy, white-skin-hating negro in the country.

Every society organized for negro social equality, fought the confirmation of the nomination of Judge Parker viciously.

Congressman OSCAR DE PRIEST, the Chicago mulatto nigger, who hates every drop of Caucasian blood in the South, applauded the vote of a Democratic Senator representing a Southern white Democratic State, when he voted to strike down a North Carolina white man, although a Republican, had stood for the preservation of purity of a race that swears by the eternal gods, that neither DE PRIEST nor any of his litter shall ever debauch any of their blood.

The mean, impudent negroes like DE PRIEST will take encouragement over their Supreme Court victory.

They have put a man on the bench of the highest court in the land, as the result of an issue straight put and clear cut, in which your United States Senate goes on record as being opposed to a man who asserts that he is a white man.

It is the highest ambition of old DE PRIEST and his ilk to wipe out the color line and make of this people a nation of mulattoes and mongrels.

They propose to take the issue to the United States Supreme Court.

They propose to test the constitutionality of your State law, which prohibits white people and negroes marrying each other.

They propose to test the constitutionality of the municipal segregation zoning laws of various southern cities, which forbids negroes owning property in white sections and living therein.

In short, they want to force their black sons into social equality and marriage with your white daughters.

Some people will tell you that this will never happen.

And there are others who will tell you that old Father Gabriel has got his horn split and will not be able to blow it on the general resurrection day.

The Supreme Court is the most important branch of our system of government.

It is the final tribunal that holds the property and the lives and liberties of the people in the palm of its hand, so to speak.

It has power to annul every act of Congress.

When the Federal Government confiscated the property of Gen. Robert E. Lee during the reconstruction days following the Civil War because he fought as a soldier in the Confederate Army the Supreme Court declared this action unconstitutional against all precedents and contrary to the principles of a humane government.

If the confiscation of General Lee's property had stood the Supreme Court test, the property of every man who fought in the Confederate Army would have been confiscated and the Confederate soldiers would have been thrown into military prisons.

When such an appointment will come south of Mason and Dixon's line again, if ever, is not known.

[From the Anderson Independent, Thursday morning, May 22, 1930]

DEMOCRATS DID IT

Here is an editorial paragraph from the Charleston News and Courier:

"The rejection of Judge Parker is, so the Newberry Observer says, an insult to southern opinion. Judge Parker can scarcely be said to represent southern opinion; but whether he does or not, it is not to be expected that the Republican Senate would neglect to insult southern opinion when the chance offered."

Was it such writing as that paragraph that won for Editor Ball the honorary degree of "doctor"?

If the rejection of Judge Parker's nomination were "an insult to southern opinion," it was not an insult inflicted by "the Republican Senate." A majority of the Republicans in that body voted to confirm Judge Parker's nomination, despite the fact that, though a Republican, he shares the sentiments of white Democrats of the South on the race question. The insult was made possible by the votes of a majority of the Democratic Senators, many of them southerners, who joined a bunch of western radicals, hardly more than Republicans in name, to make the majority against Judge Parker. It was "the Democratic Senate" that insulted the South.

[From the Anderson Independent, Sunday morning, May 25, 1930]

AND NOT UNTIL THEN

It has often been said that in national politics the South ever since the War between the States has been "a hewer of wood and a drawer of water." The explanation has been that a Democratic President would give the South nothing because nothing could drive the South out of the Democratic Party and a Republican Chief Executive would give Dixie nothing because nothing could win it to the Republican Party.

The most distinguished consideration ever given the South since the war by a President was by Taft, who appointed a southern Democrat Chief Justice of the United States Supreme Court. Had a majority of the Republican Senators of that day been as small as a majority of the Democratic Senators of the present, White would never have been confirmed. They would have said that White, having been a Confederate soldier, had been a traitor, and so was unfit to be Chief Justice.

It remained for southern Senators to defeat Hoover's recognition of southern ability by voting against Parker, who was fought for holding the same sentiments on the race question as do the southern Democrats.

When the South sends more brains to Washington—and it has them—it will resume its old high place in the councils of the Nation and in the distribution of its honors.

IN THE SAME BOAT

Several of the southern Democratic Senators who voted against confirmation of the appointment of Judge Parker as an Associate Justice of the Supreme Court are lawyers, but none of them if given a Federal appointment requiring confirmation by the Senate could be confirmed if that body accepted as a precedent the action in rejecting Judge Parker because of his views on the race question, for their views on that question are the same as his. If they be not and they disclose that fact to their constituents, they would have as much chance of reelection as a billiard ball has to grow hair. That was the horrible injustice of their action.

REVISION OF THE TARIFF—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes.

(For conference report see proceedings of the Senate of May 29, CONGRESSIONAL RECORD, p. 9783.)

Mr. McNARY. Mr. President, I desire to submit the following proposed unanimous-consent agreement, which I send to the desk.

The VICE PRESIDENT. The clerk will read the proposed agreement.

The Chief Clerk read as follows:

It is agreed by unanimous consent that at 4 o'clock p. m. on to-morrow the Senate proceed to vote upon the question of agreeing to the pending conference report on the tariff bill.

The VICE PRESIDENT. Is there objection?

Mr. BORAH. Mr. President, let the matter run along until later in the afternoon.

Mr. McNARY. Until a little later, probably 2 o'clock?

Mr. BORAH. Or a little later. We can agree upon a time later in the day. There are some things I want to know before I agree to it.

Mr. SIMMONS. Mr. President, I did not understand just what the Senator from Oregon proposed.

Mr. McNARY. I proposed a unanimous-consent agreement to vote to-morrow at 4 o'clock upon the conference report on the tariff bill, which the Senator from Idaho has asked me to withhold, and which I shall withhold until between 2 and 3 o'clock.

Mr. SIMMONS. Very well.

POLITICAL CONDITIONS IN ALABAMA

Mr. HEFLIN. Mr. President, a few days ago the New York Times devoted considerable space to publishing an article from a Raskob agent in Birmingham, Ala., concerning Miss Southern Democracy. On yesterday I furnished to the Times a copy of my reply, discussing the refusal of Miss Southern Democracy to marry Alfred the Anointed and Prince of Tammany. The New York Times this morning devoted exactly two and one-half inches of space to what I said. It did not publish my reply. I send to the clerk's desk the reply which I sent to the Times and ask that it be read in my time and appear in the RECORD in the same type as if I had spoken it.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the clerk will read.

The Chief Clerk read as follows:

"Senator HEFLIN denies that Miss Southern Democracy ever gave her consent to the political marriage arranged for her with Alfred the 'Anointed' and Prince of Tammany. The story of the unpleasant romance follows:

"'And in those days it came to pass that Alfred of Tammany, a Governor of New York and a Prince in the Roman Catholic Kingdom of Italy, proffered his hand in marriage to Miss

Southern Democracy for the purpose of aiding him in becoming Chief Ruler of the American Republic.

"'And it came to pass that the Democratic people of the South were indignant, and cries of protests and resentment were heard in all the land of Jefferson, Jackson, and Lee. But the Catholic King, whose abiding place is Italy, anxious to extend the boundary lines of his Kingdom in the United States through his anointed Prince, Alfred of Tammany, caused the Raskobites and foreign helgebites sojourning in the southern and northern diocese to go up and down the land praising in a loud voice Alfred the Tammanyite and urging Miss Southern Democracy to accept him in political marriage, and when the Roman plan and purpose had been noised abroad in the land it came to pass that Miss Southern Democracy, a stanch believer in American principles and institutions, Empress in the Temple of Southern Statecraft, and beloved queen in the Southern Kingdom of White Supremacy, arose and with all the enthusiasm, pride, and determination characteristic of her Democratic forebears, she said:

"'"The position that I hold is an important and exalted one, Sir Knights of Columbus from the Roman Catholic kingdom, and I can not accept the hand and heart of your much praised and anointed Alfred, Prince of Tammany. A political union of that kind would be but an outright mockery of marriage on the part of both of us and the essence of deception and hypocrisy in its most diabolical form. I say that, Sir Knights of Columbus from the Catholic kingdom, because I come of a race of Democrats who had and have a very high conception of their duty and responsibility to the Democratic Party and to free constitutional government in America. To me has been intrusted the delightful and important work of keeping the Democratic Party in the South clean and honest and true to the principles of Jefferson and true to its mission in America. And it is my duty to guard with intrepid vigilance the civic life and honor of the Southern States. Sir Knights of Columbus from the Catholic kingdom, I know that Alfred, the ambitious Prince of Tammany, whose cause you so ardently espouse in behalf of your Catholic king, does not feel as I feel about the duty and the mission of the Democratic Party. It is my duty to aid in holding the Democratic Party so true to its tenets and principles that we will continue to have forever in this country 'a government of the people, by the people, and for the people.'

"'"I have the American Protestant viewpoint and Protestant conviction as to the kind of Government that we should have in the United States, and the six important and indispensable principles that constitute the kind of government that must exist here if this American Republic is to live, are: Free speech, peaceful assembly, free press, religious freedom, separation of church and state, and the public school. And I stand unequivocally and unchangeably for all of them. Sir Knights of Columbus from the Catholic kingdom, I know that Prince Alfred of Tammany and the dominating forces of the Catholic kingdom in which he is a prince, hold views on 'civil government' entirely different from mine. They believe and teach that the Roman Catholic government of union of church and state is the right and proper form of government and they are pledged when they become strong enough, politically, to adopt that form of government in the United States. And, Sir Knights of Columbus from the Catholic kingdom, I must remind you that the history of the world shows that wherever the Roman Catholic government of union of church and state has been foisted upon any people, anywhere on earth, it has put shackles on human liberty and destroyed free government. I could not conscientiously give my hand in marriage to a political leader and in so doing knowingly help place him in a position to carry forward a political doctrine and system that I know are not only dangerous but destructive to free government in America."

"'"Sir Knights of Columbus from the Catholic kingdom, southern Democracy has remained true to the noble and sacred principles of the party through all the years, and kept the torch of clean government brightly burning in all the Southern States while ugly and terrible charges of graft, scandal, and corruption have been made against the Tammany Democracy. The only two Democratic Presidents that we have had since the War between the States—Cleveland and Wilson—both denounced and repudiated the Tammany Democracy as the most reprehensible and corrupt political organization in the United States.

"'"In view of these astounding, stubborn, and shocking truths I can not see how you can have the unmitigated gall to ask me, a real Democrat, reared in the pure, uplifting, and ennobling atmosphere of the old Protestant American school, to surrender the convictions of a lifetime and abandon the principles that are so dear to me—principles that have been the inspiring and righteous forces that have supported and sustained me and the Southland in all the trying and dangerous vicissitudes of the past to accept in marriage a man whose political conceptions, convictions, plans, and purposes are diametrically opposed to all that the great white family of Democrats in the South stand for. Sir Knights of Columbus from the Catholic kingdom, I can not, and will not, consent to the marriage proposal of Alfred, the Prince of Tammany."

"'And it came to pass when the decision of Miss Southern Democracy was made known to the leaders of the Roman Catholic political party that they straightway took the matter to the National Political Catholic Welfare Conference in Washington, and there the high priests in the temple of Roman Catholic politics, running true to form, declared that they would employ coercive and intimidating tactics to compel Miss Southern Democracy to marry Alfred, "the Anointed," Prince of Tammany. To that end they demanded that the Democratic States of the South issue orders to Miss Southern Democracy acquainting her with their desire and purpose to have her abandon her conscientious scruples, convictions, and principles and marry Alfred, "the Anointed," Prince of Tammany. But the Democratic men and women of the Southern States shook their heads in pointed and positive disapproval of such a program, and when they spoke through their ballots in the primaries in the spring of 1928, Alabama, Florida, Georgia, North Carolina, South Carolina, Texas, Virginia, Tennessee, and Mississippi all expressed hearty approval of Miss Southern Democracy's stand in refusing to become the political bride of Alfred, "the Anointed," Prince of Tammany.

"'And then it came to pass that there was great rejoicing among the Democratic rank and file in all the land of the South, and true Americans throughout the country congratulated Miss Southern Democracy for the stand that she had taken to safeguard American ideals and institutions and to hold the Democratic Party true to its duty to the American masses. Then in the strongholds and diocese of the Roman Catholic kingdom there went up a murmer and noisy demand that in spite of the American indignation and hostile attitude of Miss Southern Democracy toward Alfred, "the Anointed," and Prince of Tammany, that she be compelled to accept in marriage a political leader whose political plans and purposes were offensive, repulsive, and sickening to her and all that her people in the South stood for in human government.

"'And in June of 1928 it came to pass that there was a Democratic convention in Houston, Tex., where Knights of Columbus and national political welfare conference agents had gathered for the purpose of having Alfred, "the Anointed," and Prince of Tammany, nominated as the Democratic candidate for President of the United States. And again they annoyed, embarrassed, and greatly offended Miss Southern Democracy by requesting her to abandon her principles and change her mind and accept the political program for herself and her people that she had already scorned and repudiated in the primary. But she stood firm and faithful by her convictions, and but for the Southern States of Arkansas, Kentucky, and Louisiana, Alfred, "the Anointed," and Prince of Tammany, would never have been nominated as a Democratic candidate for President of the United States.

"'Then it came to pass, after Miss Southern Democracy had by three-fourths of the Southern States rejected and repudiated Alfred, "the Anointed," and Prince of Tammany, in the national convention at Houston, that she was again called upon to give her hand and heart in political marriage to this same Alfred, "the Anointed," and Prince of Tammany. For a moment she stood with bowed head and a sad and troubled look was on her face and tens of thousands of Democratic men and women in every Southern State were unhappy and indignant because of the outrageous and heart-rending ordeal to which their good angel of Southern Democracy was again being subjected. There she stood in the beauty and strength of Jeffersonian Democracy and teardrops lingered on the brink of her eyelids as she looked out over the Land of Dixie and then with head erect and light upon her face she said:

"'"I had hoped and prayed that this bitter cup would not again be presented to me. The voices of Democrats long gone who stood guard at the altar places of white supremacy in the South are calling to me, warning me of the dangers of such a union. I can see Gen. Bedford Forrest, the great 'White Chief,' and his brave white-robed Knights of the South as they protected white women from the lust and carnality of negroes drunk on their newfound freedom. I can hear again the voice of General Forrest as he proclaimed the doctrine of white supremacy and stood with flaming sword, denouncing and damning those carpetbaggers who advocated social equality and marriage between whites and negroes.

"'"Sir Knights of Columbus from the Catholic kingdom, we of the South believe that as one star differs from another star in glory that one race differs from another in fitness and in right

to rule. We believe that the white man is the climax and crowning glory of God's creation and that in the firmament of human affairs he is the sun and all other bodies are held in place by his majesty and power. We are established in that faith and upon the Ararat of this principle we have rested the ark of our social and civic covenant. Sir Knights of Columbus from the Catholic kingdom, it is my duty to promote and safeguard that doctrine and to keep the white fires of race pride and purity forever burning in the temple of the white race in the South. And the position of Alfred, 'the Anointed,' and Prince of Tammany, on social equality and marriage between whites and negroes is so shocking and abhorrent to me that I do not like even to discuss it. I know that he stands for social equality and marriage between whites and negroes and once in possession of that knowledge I could not think of political marriage with Alfred, 'the Anointed,' and Prince of Tammany.

"'"Kneeling at the alter of southern Democracy, I registered a solemn vow that I would keep the faith and preserve in their integrity the great doctrines and principles of Jefferson, the father of the Democratic Party. I can not consent to the political marriage arranged for me by Roman Tammany procured delegates from the Republican States of the East. It were far better for the Democratic household of the South and all that we hold dear in the South that I should denounce and repudiate the obnoxious and dangerous political marriage that has been arranged for me with Alfred, 'the Anointed' and Prince of Tammany. I point with pride to a long record of unfailing devotion to Democratic ideals and institutions, and to the fact that no cloud of scandal has ever hung above my horizon, and no act of dishonor has ever darkened my name.

"'"I can not and will not consent to the surrender of party leadership and control to those who would pervert the party from the ends of its institution and make it the tool and instrument of 'interests' and 'isms,' that strike down and destroy things dear to the heart of the South.

"'"In view of the issues presented and the incontrovertible truths regarding them, I again decline the marriage arranged for me with Alfred, 'the Anointed,' and Prince of Tammany, and upon this important and serious question—one that involves our happiness and well-being in the present and in the future, I demand a roll call of the Southern States, and I ask that every Democrat vote just as his or her conscience dictates."

"'And it came to pass that when Virginia, the home State of Jefferson, the father of the Democratic Party, and Tennessee, the State of Jackson, and Texas, the home State of Sam Houston, and Maryland, Kentucky, North Carolina, and Florida and Alabama, too (if the white votes had been counted as cast) all voted against the political marriage of Miss Southern Democracy to Alfred, "the Anointed," and Prince of Tammany.'

So, Mr. President, Miss Southern Democracy has not yet and she never will be married politically to Alfred, "the Anointed" and Prince of Tammany.

"In keeping with the oath that I took when I entered the Senate, and in the interest of the Democratic Party in the South and throughout the country, and for the protection and preservation of rights and principles dear to the lovers of free government in America, I helped to prevent the political marriage ceremony in 1928 that would have forced Miss Southern Democracy against her will to marry Alfred, the Tammany social-equality candidate and the candidate of the Tammany advocates of marriage between whites and negroes, and the Tammany candidate of the wet-Roman-Raskob régime. I have no apology to make for my position in that campaign. I did my duty as God gave me the light to see it, and at the Democratic judgment bar of my own conscience my conduct is approved. And to-day I stand with uncovered head in the genial presence of Miss Southern Democracy as she bestows upon me an approving smile. No Raskob-controlled committee in my State can frighten or intimidate me. Neither can it deliver the votes of the white Democratic men and women of Alabama into the hands of the wet-Raskob-Roman-Tammany machine."

Mr. HEFLIN. Mr. President, Senators here know and the people throughout the country are coming to know the kind of fight that is being made upon me in Alabama by the wet, Roman press of the United States. It is clear from some of the articles that go out from their hirelings in the press gallery of the Senate that they propose to print anything and everything that they believe will be harmful to me, and that they do not intend to print anything that I wish to say in reply to misleading and untruthful articles. The Mussolini Roman régime has killed free press in Italy and the Roman Catholic political machine has almost killed the free press in the United States.

The New York Times, after giving a column to one of Raskob's agents' effusions down in my State—a lawyer, I am told, but I never heard of him, and I really do not know whether he exists or not, whether he is a fictitious person used for propaganda purposes or whether he is in being there—prints a small notice headed, "Heflin Assails Smith—Senator's 6,500-Word Attack Follows Lines of Others."

I submit that I have not presented this matter to the Senate on any occasion just as I have presented it in that article here to-day; and they ought at least to have been fair enough to print what I did say in reply to the article they printed regarding me.

But they have their orders to knock me, to misrepresent me, to injure me in Alabama through every means at their command. I want true Americans everywhere to know just the kind of fight the Roman political machine is conducting against me in Alabama. I do not fear them. I must and I will get the truth to the people of my State. I have no apology to make. I am an American, and I swore when I entered this body that I would defend my country and its institutions against all enemies, both foreign and domestic. I am striving to be true to that oath. The Democrats of Alabama will not submit to the leadership of the Raskob-Tammany-controlled State committee. They know what all of this opposition to me is about. It is not because I have been unfaithful to my own country. It is because I have disclosed and exposed the most diabolical underground scheme which has for its purpose in due time to overthrow this American Government in favor of another form of government in the United States, whose head would reside in Italy. I have dared to show the dangerous things that have been going on there at the Capital.

The Senate and the country need but to be reminded of what has been and is going on in the so-called lobby committee of the the Senate to prove that what I am saying here is true. I sometimes think it should be called "the Roman Catholic inquisitorial body." It seems to me that that force has been inspiring if not directing some of the work of some of the members of that committee. Protestant preachers of various denominations have been called here. They have been subjected to all kinds of cross-examination, and frequently the treatment was not as genteel and respectful as it should have been. They have been asked why and how they opposed Smith, the wet candidate, and what efforts they made to defeat him, and whether or not they spent money to defeat Smith.

What business is that of this committee? None. The Senate never authorized this committee to do that. The Senate authorized this committee to inquire into lobbying, efforts being made here to affect legislation, to procure legislation, or defeat legislation. The committee have gone far afield, some members of it, in their efforts to humiliate and insult some of these great Protestant ministers of the United States.

I have no prejudice against any denomination. The Roman Catholic hierarchy knows that. If Protestants were doing what Roman Catholic leaders are doing politically against free institutions, I would denounce them. The Roman Catholics know that I am not fighting their form of worship. I am fighting their political beliefs and activities and intentions in the United States.

The other day, when I had spoken at some length in the Senate—two hours, perhaps—I was called into the reception room by a number of men and women from several States—Pennsylvania, New Jersey, New York, Ohio, California, and North Carolina. After shaking hands with a number of them I started back, and a little lady sitting over in the corner hailed me and asked me if I got her card. I said I thought I had shaken hands with all those who sent in cards, and I had them in my hand. She said, "That is my card"—Miss LeBarfe, from Asheville, N. C.

She said, "Senator HEFLIN, I enjoyed your speech, most of it. I am glad I had a chance to hear you. I wanted to shake your hand. I am a Roman Catholic. I want to ask you a question, if it will not offend you."

I said, "Go ahead."

She said, "Why do you hate the Roman Catholics so?"

I said, "I do not hate them. I never attack individual Catholics. I want them to worship just as they choose to worship. I have said that in all my speeches. The Roman Catholic leaders know that; but I am fighting their political beliefs and intentions."

She said, "What are they?"

I said, "Their beliefs are that a government of union of church and state is the proper form of government. They are opposed to any government that is founded on the principle of separation of church and state. They are teaching the union of church and state in every parochial school in the United States, and generation after generation, taught that doctrine, will some day, when the leaders tell them the time is ripe, fight to establish that form of government in the United States; and we who have been reared in a different school, who believe in the American principle of separation of church and state, will

fight to prevent that form of government from being set up in the United States."

She looked at me earnestly, and said: "Senator HEFLIN, I know what you are driving at. It will produce a war."

I said, "Yes."

She said, "I believe you are telling the truth."

I said, "I am trying to prevent such a thing happening in the United States."

Mr. President, this Government must lay down an established doctrine regarding our rights and liberties in this country. No citizen or group of citizens should be allowed to weaken and undermine free government in America. I ask of any Senator here who hears me, Am I right when I say that the Government of the United States ought to define what can be taught and what can not be taught on principles affecting the life of this Government?

I hold that the doctrine of union of church and state is deadly to our free institutions. I have challenged Senators here and people elsewhere to deny the truthfulness of that statement. Again I assert that all over the world where the union of church and state form of government has been tried it has killed liberty and destroyed free government. Nobody can dispute that; and when I stand here and fight for a doctrine and a principle to prevent the spread of any doctrine that will result ultimately in the overthrow of my country, I ought to be supported, and the press ought to be open and fair and honest and let the people know just what I am saying and doing here about things that affect the rights and interests of all Americans. Instead of that, however, I am attacked from ambush and shot in the back by political assassins. I am misrepresented in a subsidized press, which villifies and slanders me and will not give to the country the facts about my position on questions that vitally affect the life of this Republic.

Mr. President, they have invaded my State. Everybody knows that they influenced a majority of the State committee, 27 members of it. Why, they went down here to Norfolk, Va., and they got a man named Patrick, who paid his poll tax in Norfolk in 1928 and in 1929, formerly a member of the State committee in my State. They took him down to Montgomery, the capital of Alabama, and he was present and voted to foist this primary monstrosity that they have foisted upon the Democrats of Alabama. They filled three vacancies, and one of the members put on told two circuit judges in my State that he had to promise to put up the bars against Democrats who supported Hoover before they would permit him to be elected a member of the committee. There is a rumor that two members were in financial straits and that the financial pressure being put upon them was immediately relieved, and they then did the bidding of the O'Toole-Brown-Gunter-Pettus-Smith-Raskob ring.

Mr. President, since that committee acted I have discussed its action before 50,000 Democrats in Alabama. I have called on them for an expression on this subject, and they have held up their hands, 50,000 of them, condemning the committee's action and requesting it to meet and rescind it, and not as many as 50 men and women have held up their hands in opposition to the resolution.

Democrats all over Alabama know that what the committee did was not for the good of the Democratic Party, and it is rapidly dawning upon them that some strange influence has "influenced" the State committee to do a very strange and harmful thing to the Democratic Party in Alabama.

The truth about the committee's action is getting over the State. I have a letter from the father of one of the members of the State committee, who voted for the Raskob primary plan, and that father said if they had not got some of the members "drunk," there would not have been any bars put up against any Democrat in Alabama. I have a statement from a law-enforcement officer at the capital of my State who said he tried to get out papers to raid the hotel where this drunken revelry was going on at a hotel in Montgomery Saturday night, Sunday, and Sunday night before the committee met Monday, but they "did not" get the papers ready in time, and the liquor that had been sent in for use at this meeting was drunk up before the raid could be made, and when he did invade the hotel on Monday they found an auto truck load of empty gallon glass jugs and pint and quart bottles. They hauled off a truck load of them. Perhaps Raskob's wet association had something to do with sending in this liquor. Well, the thing arranged there is without a parallel in any other State in the Union. No other State committee has had the gall to lay down a primary plan that discriminates against every Democrat in the State.

You ask, How can that be? Well, they say, in the first place, that those who supported Smith can run for office and vote, and those who opposed Smith can only come in and vote. They are denied not only the right and the privilege of being candidates themselves but also of selecting the candidate that they may vote for in the Democratic primary. Thousands of those who supported Smith, tens of thousands of them, are for me, but they can not vote for me at the primary because those 27 members controlled by Raskob and Tammany will not let my name go upon the ballot. So they are denied the right to vote for the candidate of their choice, and those who supported Hoover are denied the right to vote for the candidate of their choice unless he happens to be on the Raskob list. So no Democrat in Alabama can vote for anybody that has not been O. K'd by the New York-Raskob-Tammany régime.

Mr. President, it is a humiliating situation. We have thousands of instances where a man voted for Smith for no other reason than to be "regular" and his wife voted for Hoover, his son and daughter voted for Hoover, and the husband is saying that if they can not all go in on equal terms they will all stay out of the un-Democratic primary, that Judge Thomas, of the Supreme Court of Alabama, who supported Smith, says is unlawful, null, and void.

Here is the husband refusing to go into this primary because it discriminates against his wife, his son, and his daughter. And still we can not get this Raskob-controlled committee to change its action and do the thing that would bring all Democrats together in a real Democratic primary. Every other Southern State has a fair-for-all Democratic primary, and all Democrats are treated alike, and that action has resulted in party harmony in all those States, but Alabama Democrats have been denied the right to have and participate in such a primary. The Roman-Raskob-controlled committee has decreed otherwise. Why? Is it because I live in Alabama and represent in part that great State in the Senate, and has "somebody" put a price on my head that has been tempting to "those twenty-seven" members of the State committee? The people all over the State believe that there is something wrong and something crooked behind the action of the 27, and I believe that that is true.

When Newberry got ready to go out and buy a Senatorship from the State of Michigan he called his manager and said, "Here is $50,000 to start with." Mr. President, many Democrats in my State are wondering just how much was authorized to be spent in preliminary arrangements to keep me out of the Democratic primary in Alabama.

They have two candidates for the Senate running in the Raskob primary. Both of them are satisfactory to the Roman hierarchy and the Roman Catholic political-welfare conference here in Washington. I will have more to say about them and their Roman connections later. They have two candidates, and both of them are satisfactory. Both of them are very wealthy men. Both of them are no doubt getting all the finances they need from this group that is getting ready to run Al Smith for President again in 1932.

Is there no balm in Gilead for the Democratic Party; is there no healing physician there? My God! What an affliction has come upon my party. Will they undertake again to tie us to that political body of death? Go look at the vacant seats in the House, 40 Democrats gone, dead by the wayside in the wake of Alfred Smith's political trail. Two or three Senators have gone from this body because of his candidacy. Thousands of candidates for local offices in the States went down in the deluge of ballots that fell upon the Tammany candidate who repudiated the platform upon which he was nominated.

Mr. President, nothing but death and sorrow trail after this man's political leadership; and again we are moving toward another presidential fight, with this man being groomed, supported by the Liquor Trust, and Raskob, a Republican, at the head of the Democratic National Committee.

What an awful job they have put upon the great Democratic Party. I do not simply tell you that Raskob is a Republican, and leave it there. Here is the Nation's guidebook on these matters, a book called "Who's Who in America for 1928 and 1929," and it tells us that John J. Raskob is a Republican, and a member of the Union League Club of Philadelphia; and one can not belong to that club unless he is an A No. 1 Republican.

When they selected Raskob they went over the head of every Democrat in the country and picked this man out and brought him in, and put him at the head of the great National Democratic Committee. Was the Democratic Party ever before in its history subjected to such a shocking, shameful, and trying ordeal?

The idea of taking up and nominating a Tammany man to lead the party of Jefferson, that great and inspired Democrat, who laid down a political philosophy that has gained the admiration of liberty-loving masses the world over. Have we Democrats not fallen upon an evil day? Then they ask me

to surrender my convictions as a lifelong Jeffersonian Democrat and bow down and accept un-Democratic principles and conditions when I am in position to know just what is being done to deliver the party over to the Roman Catholic political machine. I declined to do that in 1928, and if they nominate Smith again in 1932, I will refuse to support him again.

Knowing Governor Smith as I do, the things he stands for, and the far-reaching and dangerous influences back of him, I can not and I will not support him for President of the United States. I may be misunderstood, but I know that I thoroughly understand the issues involved in such a program. I love and trust the Democrats of my State. They have honored and trusted me for years. I have fought Alabama's Democratic battles in various counties in the State. And now an alien influence and strange political tactics are employed in our Democratic household in Alabama to destroy without a hearing a native son of the party in Alabama. They are asking the Democrats of the State to stand aloof with folded arms and sealed lips and watch 27 members of the State executive committee, controlled by the Smith-Raskob-Tammany régime, strike me down, without giving them the right to pass upon me and my service as their Senator from Alabama.

Mr. President, they will never get away with it in Alabama! Thank God the Democrats of Alabama are not for sale. Just think of the terrible and humiliating ordeal that confronted me when I, whose father as one of the leaders of the Ku-Klux Klan helped to put down negro rule in Alabama in reconstruction days, when I was called upon to follow Alfred Smith when I knew his disgusting and dangerous position on the negro question. My father and his brave comrades, white-robed knights of the Southland, helped to drive out the scalawags and carpetbaggers and they gave back home rule and self-government to every Southern State.

His devotion to the rule of the white man and his service in establishing white supremacy and protecting the sanctity of the southern home is to me a heritage worth more than any amount of gold.

Devotion and adherence to these principles are in my blood. I love the principles of my party. I have battled for them all my life, and white supremacy is one of the cardinal principles of the Democratic Party. Then I am asked by Raskob and his Tammany outfit to come up and surrender all my political background and principles and accept a man as the nominee for President who voted, while a member of the Legislature of New York, to compel all the hotel proprietors and restaurant proprietors to throw their doors open to negroes and whites alike, to receive and serve without discrimination all, negroes and whites, in hotels and restaurants. Just think of it! They put him up as a leader for me to follow, when I knew as thousands of Democrats who voted for him did not know, that he was a believer and ardent advocate of social equality between whites and negroes.

We Democrats of the South believe in the separation of the races in all the essential things. We know more about that question than some of you. We know that that is the best way to handle it. It is necessary to have a dividing line and a dead line, with your negro population on one side and your white population on the other. It is necessary to place metes and bounds about the brutal and dangerous element in the Negro race and segregation is the best way to take care of that problem. The law-abiding negroes know that that is true, not only that, but white men and women demand that every safeguard possible be thrown about white women in the South to protect them from negro assault and outrage. Al Smith and his backers believe in marriage between whites and negroes. Go look at Mexico, with a large portion of her population mixed with negroes and Indians and other peoples, and what have you? A strange mixture of people and strife all the time, easily led by designing priests, the people fleeced of their substance year in and year out.

Go look at Spain, once proudest among all the nations of the earth, with her mixed population, brought in under the Roman Catholic doctrine of open and unrestricted immigration, bringing them in from everywhere to build a mighty Roman monarchy. You have a mixed breed and a population which brought Spain down from the high pinnacle of her former glory. There is a concrete case of such a mistaken policy. Your mixed breeds will not do. The Democratic South is right on this question, and I will not any more permit a so-called Democrat to cause me to surrender my convictions on this subject than I would permit a Republican to do it.

I believe that God Almighty preserved this western world for the final habitation and everlasting control of the white race. He expected us to set up here a government which all nations could behold and be constrained to follow in its footsteps because of its good works and sound principles.

Mr. President, whenever any party in America reaches the point where it will surrender this principle of the rule of the white man, the deadline between negroes and whites, and is willing to go over, surrender principles, and play politics in order to get the negro vote, we are doomed, and whenever a leader of that kind is put at the head of my party I will put upon his brow the scarlet letter of unfitness, shame, and rejection, and I will refuse to support him. The Roman Catholic political machine seems to be anxious to make this question a national issue, their nation-wide opposition to me establishing that fact beyond peradventure. They are inviting it. The non-Catholic people are not afraid of the issue. They are sick of several things that took place in this lobby committee. Why has not that committee gone in and investigated a constant and ever-present Roman Catholic lobby established and here all the time in Washington? This is the Roman Catholic National Welfare Conference.

I have here a report they made to the Pope two or three years ago, and among other things they said:

> The executive department has to treat directly with the United States Government and its numerous departments on matters that affect Catholic interests, and this has been almost a daily task.

Six weeks ago I wrote a letter to the lobby committee, and had it printed in the open RECORD, calling on them to be fair in their investigation. I said, "If you are going to investigate one denomination, investigate them all. Do not show any partiality." I felt that if they were going to drag in Protestant ministers of every denomination, if they wanted to furnish information to the wet association, Raskob's and Du Pont's bunch, telling them how prohibition forces have been fighting the liquor traffic, so that they will be able to fight and undo if they can their work in the future. I said, "Call all denominations, if you are going to call any."

Let me read another line from this same report to the Pope:

> The national headquarters now occupy two buildings at 1312 and 1314 Massachusetts Avenue, Washington, D. C. The executive department supervises the coordinated activities of the other departments. It keeps in direct personal touch with the officials of the Government, from the President and Cabinet to Members of Congress.

Have you heard anybody calling them to appear before the lobby committee? I am going to be dreadfully criticized for this speech. There are people in this gallery who are taking notes now. They will report what I say. I will be criticized for discussing this phase of the question. And yet I dare to do it in the interest of fair play to all denominations and in the interest of pure, old-time American fairness to everybody concerned.

What else does this document say?

> On January 19, 1921, the National Catholic Welfare Board sent out a letter signed by M. J. Slattery, executive secretary, appealing to the church to protest against the Smith-Towner bill to establish a department of education.

Fighting to kill an educational bill! What interest did they have in it? They have their parochial schools. They fight to the death our public schools, and here they are seeking to prevent this Government from establishing an educational department at Washington which would give the State absolute control of their schools within the State. Later on in this letter they boast that they defeated that bill. They said it was their purpose to keep it from coming to a vote, and that they had succeeded in doing that.

Now, let us have some activity from the lobby committee, some of them "brave, heroic" members, judging by their tender and sympathetic conduct in the examination of these Protestant preachers, one of them particularly a man on a crutch, Bishop Cannon. I am not discussing the merits of his case, whether he did right or wrong in speculating on an exchange, but he has done a great work and he is a sick man, and he was representing many people of many denominations when he led the fight against Al Smith, the wet candidate for President of the United States. And he had a right of an American to oppose him. And now, since they have got about all the information they want as to how the drys fought and whipped Alfred in 1928, they are about ready to say, "Oh, well, we will forego any further examination."

Mr. President and Senators, just think of what the Democratic Party is still up against, Raskob just returned from a political conference in Rome, still holding on as chairman of our great Democratic National Committee. He was in political conference with the secretary of the Roman Catholic Kingdom of Italy, hobnobbing with the political leaders there for a week, he goes fresh to Paris, and then announces that prohibition will be dead in the United States in about two years.

John J. Raskob, going straight from the headquarters of the Democratic National Committee over here to see the Secretary of State inaugurated into office in the Catholic kingdom, he himself a chamberlain to the Pope, sits there and hobnobs with them for a week and then comes back and issues another defi to the moral forces of this Nation, and announces that the opposition and successful fight against the liquor traffic that they have been carrying on and won is all to be set aside in a little while—in just two years.

Who is this man? He himself admitted giving $65,000 to an outside wet association, whose business it is to help defeat dry Democratic candidates for Congress. Is not that an awful situation? Think of it! The man Curran, a man for whom Raskob is responsible, in part at least, swore that Raskob was paying him, and that four others were paying him $5,000 a year each, making $25,000 in all, to help elect wet candidates to Congress—Democrats or Republicans, white men or negro men, for they announced that they drew no color line—and in the course of his testimony Curran said when he was asked if the Raskob wet forces would take up armed force against the Government—because that is what it meant—in their fight against law enforcement on prohibition, said, "We will cross that bridge when we come to it."

Think of such an outrageous statement! We want all these matters settled peaceably and in an orderly way in the United States. God knows that the men and women who felt the fangs of the deadly barrooms of the Nation, whose homes were swept from them and who now walk the streets of strange cities paupers because of the curse of the barroom in the old days—and there are thousands and tens of thousands of them who do not want that situation ever to return. They feel very strongly on the subject. They read their Bibles and pray over it. They are intensely in earnest in their opposition to it. Yet here is a man coming out with the Tammany-inspired Raskob bunch, telling a committee at the Capital of the country, "We do not know whether we will take up arms later on and fight to overthrow the Government or not. We will cross that bridge when we come to it."

That statement and that attitude deserves the condemnation and repudiation of every American patriot.

That is not all. Raskob gave support to a wet negro candidate for Congress in St. Louis in 1928 who was running against a white man. In this Raskob wet association book of rules and regulations they confess that they support alike negroes and whites, Democrats and Republicans, if they are wet. Just think of the Democratic Party of other days falling down and down and crawling under such leadership as that! May God deliver the party of Jefferson, of Jackson, and of Wilson from such unfit hands!

I am put upon the rack to be crucified because I would not accept Al Smith and his negroism. "Why did you not vote for him?" "I know his record." "What else did you know?" I knew that while Governor of the State of New York, as the Manufacturers Record pointed out, he permitted dance halls to operate every night, and they are operating now, where negro men and white women dance together and where white men and negro women dance together. The people who hail from the sunny land of Dixie and you, too, my friends of the North, do not indorse such degrading things as that. Yet he winked at it and encouraged it. While he was Governor of New York he permitted negroes to marry white people, and they are still doing that up there under the "so-called" Democratic reign of the Tammany régime.

They ask me, a southern Democrat, reared with my reverence for high ideals upon this question, to fling them all aside, to shut my eyes, and follow blindly the leadership of Al Smith. I refused to do it. I would refuse again to do it.

Punish me for being a faithful watchman on the wall! Why, Mr. President, Alfred Smith believes in social equality. I have read on the floor of the Senate a dozen times in all perhaps from the New York World an article showing that Smith is for social equality. That was an appeal to the negro vote, to line them up, and he lined them up as no candidate running as a Democrat ever did. He cost you Republicans many negro votes, but by his appeal to the negro vote he lost many a white vote with Democrats who knew the truth about his real position on the negro question. He got many southern votes that he never would have received if they had known the truth about his position on that question.

What else did I know? I knew that the distinguished junior Senator from South Carolina [Mr. BLEASE] had had read in the Senate a statement that Smith in order to get the negro votes had promised to go the Republicans one better and put a negro in the Cabinet. Oh, yes, they were going to out-Herod Herod with you Republicans in that campaign—anything, anything, O Lord, to get their votes and elect Alfred President. So I rose in my place and said, "I want to comment on these charges against Governor Smith." I asked for an answer to these charges. I said, "Governor Smith, are you for social equality?" He would not answer and he has not answered yet. "Are you going to put a negro in your Cabinet if elected?" He did not answer and he has not answered yet.

Mr. President, fair-minded white Democrats of my State, when they know of these charges and when they know the whole truth will cast but a handful of votes against me. I have asked them face to face, "If you had known these things as I knew and know them, would you have voted for Al Smith for President?" and they shook their heads, and when the speaking was over they came up and shook my hand and said, "If I had known what you knew about Smith I would not have voted for him." Now they dare to invade my State with their Roman-Tammany doctrine and endeavor to convert the Democratic Party there into a handy instrument and agency of the Roman Catholic political party of the United States. Old-time Protestant Americanism must bow down in my State in sackcloth and ashes to the high priests in the temple of this new-born Raskob-Tammany democracy. In my State it shall never be!

Mr. President, in 1903 I was a delegate in the constitutional convention of my State. The ignorant and corrupt negro voters were organized by unscrupulous, corrupt, and designing white and negro politicians and were marched to the polls in blocks of 100 and 500 and voted for 25 cents apiece and a drink of whisky. They knew nothing about and cared nothing about the issue of government. They were driven up and bartered and voted like sheep in the market place.

As a delegate in the constitutional convention I helped to clean up that situation. We took the ballot out of the hands of the vicious, ignorant, corrupt negro vote of my State, and we put it back where it belonged in the lily-white fingers of the Anglo-Saxons of Alabama. I was in the thick of that fight. I was one of the four men who stumped the State to ratify the constitution. I preached the gospel of white supremacy on every stump in my State. I have been in all the battles of the party in my State. I have never once deserted them. I will not desert them now.

When I was fighting down there I had an illustrious example given me in the old North State—where my grandfather Wyatt Heflin was born—just two years before. There was a little giant up there, the "Little Giant" of North Carolina [Senator SIMMONS], who, at the head of his red-shirt brigade, led against the scalawag and carpetbag remnants still left in the State where they had made barter of the ballot in the hands of the negro who held the balance of power. SIMMONS, the "Little Giant" of North Carolina, was leading the Democratic host in favor of white supremacy.

You could hear the marching of his brave white army around the camps of old Mecklenberg, where the first declaration of independence was born. You could hear their stately tread around Guilford Court House, and you could see the "Little Giant" as up the side of Kings Mountain he marched with his brave Democratic comrades until finally they planted the flag of white supremacy in victory upon the summit of Kings Mountain.

Mr. President, when that great battle had been fought and won, the Democrats throughout the old North State gathered around their white chief, the "Little Giant" of North Carolina, and lifted him aloft and bore him on their shoulders amidst the shouts of the Democratic multitude of North Carolina.

This is a part of the heroic work that the "Little Giant" of North Carolina has done for his State. He sat here and heard read, at the request of the Senator from South Carolina [Mr. BLEASE], an article to the effect that Al Smith had promised to put a negro in his Cabinet. He heard me discuss the New York World article stating that Al Smith was for social equality. He heard the undisputed evidence read here that Smith had voted to open hotels and restaurants to negroes and whites alike, the very essence of social equality, and that he believed in marriage between negroes and whites.

I now make this statement to Alfred Smith. He is not now in a campaign for office. He certainly is not too dumb to speak now, although he is very dumb. I charge, Governor Smith, that you voted to mix negroes and whites alike in hotels and restaurants in New York State; that as governor you permitted marriage between negroes and whites in New York State; that you permitted dance halls to exist where negroes and whites danced together every night, as they do now; and that you do now and did then believe in social equality and in marriage between negroes and whites—and I challenge you to deny it!

Mr. President, the "Little Giant" of the old North State sat here and heard all this evidence. He, whose brilliant and brave leadership had caused North Carolinians to name him the

"Little Giants" of North Carolina, knew when he went back home that he had led out of the wilderness of corruption, sin, and political crime and had restored that State. And then Tammany expected him to accept Alfred Smith and all that he stood for, diametrically opposed to all that SIMMONS had stood for and his people had stood for and that all the South had stood for.

If I were at liberty to state the facts of the tremendous temptation they offered to that man to get his leadership in North Carolina it would astound the State and the Nation. If I should relate the efforts they made to have him meet in conference in Washington a New York man, who would lay before him certain offers and promises, it would wake up the Nation.

Now, what are they doing in North Carolina? Just what they are planning to do in my State—to register negroes as white Democrats. Mr. President, I do not believe in negroes voting in a white Democratic primary. The very name of our primary tells what it means. We want a white primary, and we have got it in my State. We want only white Democrats and Republicans and their wives who believe with us and become Democrats; but we do not want any negroes brought in and registered as white Democrats to be used to defeat a Democrat who has fought the battles of the Democratic Party as I have fought them and as the Senator from North Carolina [Mr. SIMMONS] has fought them.

What are they doing in North Carolina? His magnificent fight has appealed to Senators on both sides. Ill at times, battling against difficulties, he has fought one of the finest battles he has ever fought in his long career, faithful to his people, to his country, to his party. We find some down there in his absence, while he is here at his post of duty, registering negroes, according to the newspapers, in the white primary for the purpose of helping defeat him in the primary next Saturday—God save the mark! The right of 330 colored voters to vote in the white primary is challenged at Raleigh, the papers tell us—think of that! My friends, the Democrats of my State would kick any Democrat out of the party who would undertake to do such a thing.

I love this man SIMMONS almost as well as I would love a father. He has been, in a sense, a father to me. I have had great affection for him ever since I entered Congress several years ago. I love the "Little Giant" of the old North State. I have seen him on the firing line many times. I have seen his State grow and develop under his leadership until to-day it is the foremost State of the South in industrial development and in good roads, and its citizens pay more income taxes than do those of any other Southern State. At this time when he is again asking renomination at the hands of his party we find them slipping around and calling on negroes in the nighttime to come in and vote in the white primary to help defeat him. Would it not be the irony of fate if they should use such diabolical and damnable tactics to defeat a man like SIMMONS? It will not be.

Mr. President, in the beautiful lines of Tennyson we are told about the Holy Grail, the silver cup from which Jesus drank wine at the Last Supper with his Disciples. It hung for a long time upon the walls of the home of Joseph of Arimathea. So long as it remained there all was well in the home; peace and contentment were there; the voice of song and laughter was heard; the birds sang joyously in the trees; the flowers and roses bloomed in beauty about the yard. One day the hand of the invader came and plucked the silver cup away. No sooner had its presence been withdrawn than the clouds of gloom and despondency hung over the scene. The voice of song and laughter was hushed; peace and contentment fled; the birds ceased singing in the trees; the flowers and roses drooped and died. Sir Galahad, gallant knight, registered a vow that he would go out in search of the Holy Grail and would not return until he could restore it to its time-honored place upon the walls.

When the black cloud of negro rule hung like a pall over the old North State, her "Little Giant" with his army of redcoats marched out and stormed the ramparts of the opposition; registered a vow that he would go out in search of the unsullied flag of the white supremacy and would not return until he could restore it to its time-honored place upon the wall of the absolute rule of the white man. He made good that pledge, and all is well in the old North State, thanks to the splendid leadership of this great man from North Carolina.

Mr. President, in conclusion, I turn again to my own State; I address the chairman of the State committee of Alabama, and I say to him, Mr. Pettus, chairman of the State committee, since Judge Thomas, of the Supreme Court of Alabama, has declared the primary plan laid down by you and 26 other members of the State committee to be unlawful, null, and void, and since the Supreme Court of Texas has made a similar ruling, permitting all Democrats to vote and become candidates for office in the primary of Texas, will you not call a meeting of the State committee for the purpose of giving Alabama Democrats an opportunity to appear and to be heard in favor of rescinding the committee's action of December 16, 1929, from which bitterness and righteous resentment have resulted among Democrats all over the State.

In view of the further fact that forty-five to fifty thousand Democrats in public meeting have condemned the committee's action of December 16, 1929, and have requested that, for the good of the party and the good of the State, that action should be rescinded, it is your duty to see that action to that effect is taken.

In view of the further fact that the 27 members of the State committee acted contrary to the wishes of four-fifths of the Democrats of the State and against the best interests of the Democratic Party in ordering the kind of primary they did, I insist it is your duty as the chairman who called the committee meeting in December last—a month earlier than it was announced it would be called—to call the committee together again and permit the Democrats of Alabama to inform you and your associates of their rights, interests, and desires regarding the kind of primary they want held for their party in Alabama.

In view of the further fact that the kind of primary you called in Alabama is different from all the other Democratic primary plans provided in all the other Southern States, I feel, and the Democrats all over Alabama feel, without regard to how they voted in 1928, that you should call a meeting of the State committee and do the thing necessary now to unite and bring together all the Democrats of Alabama in a fair-for-all Democratic primary.

In view of the further fact that you and your associates undertook to put this unlawful, harmful, and undemocratic primary plan upon the Democrats of Alabama and thereby have done more to create suspicion, dissatisfaction, discord, and division among Democrats in our State than anything that has happened in a generation of our people, it is your duty to have that action rescinded.

In view of the further fact that you and your 26 associates of the committee have put the Roman-Tammany political party in your primary plan in our State above and beyond the interests of the Democratic Party in Alabama, above and beyond the things that involve home rule, self-government, and white supremacy, I feel it to be my duty again to request you to call a meeting of the committee and give four-fifths of the lifelong Democrats of the State an opportunity to tell you that they want you to rescind your action of December 16, 1929, and order a legal, fair-for-all Democratic primary in Alabama.

In view of the further fact that you and your 26 associates of the committee have in the primary plan that you adopted singled out Al Smith, the wet, Roman, Tammany man, who bolted the Democratic platform upon which he was nominated, as the test for fitness and for permission to run in Alabama for office as a Democrat or to hold office as a Democrat in the State, I feel, and Democrats all over the State feel, that you should call a meeting of the committee and rescind that outrageous action, which has proven so offensive, irritating, and insulting to four-fifths of the Democrats of our State.

In view of the further fact that I personally acquainted you as chairman of the State committee in a letter in response to one that you wrote me in 1928—a reply that you never made public—with the facts about Al Smith's true position on social equality between whites and negroes and with his views in favor of marriage between whites and negroes, I feel that I am justified, in the name of four-fifths of the Democrats of the State, in asking you to call a meeting of the State committee and undo the dreadful, terrible, and inexcusable things that you and your 26 associates have done in seeking to punish Democrats who knew in 1928 that Smith stood for social equality between whites and negroes and believed in marriage between whites and negroes and permitted it as Governor of the State of New York.

And, finally, I said then and say now that if you, as chairman of the State committee, had made that letter public and the Democrats all over the State had known the facts, as they were entitled to know them, and as they then existed and as they now exist, that Al Smith was and now is in favor of social equality between whites and negroes and marriage between whites and negroes, he would not have received 25,000 votes in the State of Alabama.

I have had hundreds of Democratic men and women in Alabama who voted for Smith tell me or write me that if they had known these things that have since been disclosed about Smith and his position on the negro question they would not have voted for him in 1928.

Mr. President, this is the only way I can get the facts before the people of my State. The press is unfair to me. My opponents have managed to manipulate and control in my State

four-fifths of the daily press and some of the weekly press. I was elected in 1920, however, without the support of a single daily newspaper but one, and that one was published away up on the Tennessee line. Many of the weekly newspapers supported me then as they support me now.

I want to say, my colleagues, that my opponents are making a terrible fight against me; the Raskob leaders here at the Capital and in New York are already going out and seeking to get Democratic Senators and Congressmen who live in other States to pledge themselves to come into my State in the fall and speak against me. I want the RECORD to show that fact so that their people will know just what is back of the fight they are making on me.

Of course, they will pay goodly sums to these men. They did that in 1928. It is the first time in the history of the Democratic Party that speakers had to be paid to go upon the hustings and advocate the cause of the candidate. If the amount of money they spent in securing speakers to go out and advocate Smith could be disclosed, it would startle the people of this Nation. They are getting ready again. They have already invited Senators and some Members of the other House and public men elsewhere to go into my State, and some of them have told them: "No; that is a family fight. HEFLIN has not been treated right. I am not going to have anything to do with it. I like HEFLIN. We are friends." "Well, we don't want you to attack him. We want you to speak on party loyalty."

I am giving them notice in advance what the plan is; and here is this Raskob committee, the very daddy of it. That is the work they are doing. Instead of trying to get a fair primary in Alabama and get that committee to meet and rescind its action, they are going out in the highways and the byways to employ speakers to come in and fight me after they have put up the bars in my face, after I have pleaded with them for six months to let down those bars and let me in and settle our differences in the primary altogether; after I have said to them time and time again, "Let me come in and run as a Democrat. If the voters defeat me I will accept the defeat gracefully; but when you refuse to let me in, you say that I can not be defeated in the primary. You know that the Democrats will vote for me and renominate me; and you have determined, under this new Tammany machine, to throttle the will of the Democrats in my State, to deny them the right to pass upon their servant in the Senate, and deny him the right to be heard by those who elected him."

It is the most outrageous and damnable action ever taken by any little bunch of strangely influenced politicians. They will not get away with it in my State. I shall take our cause to the Democratic masses. They know what the party principles are. They know where I stand in regard to white supremacy. They are not ready to surrender these things, so dear to the heart of the South. They will not surrender them; and I, who stand here and speak in part for them, will be true to them as long as I hold a commission in this body.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had agreed to the amendment of the Senate to the bill (H. R. 937) for the relief of Nellie Hickey.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9806) to authorize the construction of certain bridges and to extend the times for commencing and completing the construction of other bridges over the navigable waters of the United States.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes; that the House had receded from its agreement to the amendment of the Senate No. 17 to the said bill and concurred therein; and that the House had receded from its disagreement to the amendment of the Senate No. 18 and agreed to the same with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Vice President:

S. 108. An act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce;

S. 1317. An act to amend section 108 of the Judicial Code, as amended, so as to change the time of holding court in each of the six divisions of the eastern district of the State of Texas, and to require the clerk to maintain an office in charge of himself or a deputy at Sherman, Beaumont, Texarkana, and Tyler;

S. 3272. An act to authorize the dispatch from the mailing post office of metered permit matter of the first class prepaid at least 2 cents but not fully prepaid, and to authorize the acceptance of third-class matter without stamps affixed in such quantities as may be prescribed;

S. 3531. An act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes;

S. 3599. An act to provide for the classification of extraordinary expenditures contributing to the deficiency of postal revenues;

H. R. 3144. An act to amend section 601 of subchapter 3 of the Code of Laws for the District of Columbia;

H. R. 5662. An act providing for depositing certain moneys into the reclamation fund;

H. R. 9123. An act for the relief of Francis Linker;

H. R. 9557. An act to create a body corporate by the name of the "Textile Foundation";

H. R. 9996. An act to amend the act entitled "An act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia," approved February 11, 1929;

H. R. 10037. An act to amend the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1929, and for other purposes," approved May 16, 1928;

H. R. 10117. An act authorizing the payment of grazing fees to E. P. McManigal;

H. R. 10480. An act to authorize the settlement of the indebtedness of the German Reich to the United States on account of the awards of the Mixed Claims Commission, United States and Germany, and the costs of the United States army of occupation;

H. R. 11228. An act granting the consent of Congress to the State of Illinois to construct a bridge across the Rock River south of Moline, Ill.;

H. R. 11240. An act to extend the times for commencing and completing the construction of a bridge across the Monongahela River at Pittsburgh, Allegheny County, Pa.;

H. R. 11282. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Tenth Street in Bettendorf, State of Iowa;

H. R. 11403. An act to amend an act entitled "An act to create a revenue in the District of Columbia by levying tax upon all dogs therein, to make such dogs personal property, and for other purposes," as amended;

H. R. 11435. An act granting the consent of Congress to the city of Rockford, Ill., to construct a bridge across the Rock River at Broadway in the city of Rockford, Winnebago County, State of Illinois;

H. R. 11547. An act to provide for the erection of a marker or tablet to the memory of Joseph Hewes, signer of the Declaration of Independence, member of the Continental Congress, and patriot of the Revolution, at Edenton, N. C.;

H. R. 12131. An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct, maintain, and operate a free highway bridge across the Allegheny River at or near Kittanning, Armstrong County, Pa.; and

S. J. Res. 167. Joint resolution to clarify and amend an act entitled "An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes," approved March 2, 1927.

JULY 5, 1930, A LEGAL HOLIDAY

Mr. BLEASE. From the Committee on the District of Columbia, I report back favorably, with amendments, the joint resolution (S. J. Res. 184) to declare July 5, 1930, a legal holiday for all banks and trust companies, the officials and employees thereof, in the District of Columbia; and I submit a report (No. 814) thereon. This joint resolution is unanimously reported from the Committee on the District of Columbia, and has the approval of the District Commissioners; and I ask for its immediate consideration.

The VICE PRESIDENT. Is there objection to the immediate consideration of the joint resolution?

Mr. BORAH. Mr. President, I should like to know how many more holidays we need.

Mr. McNARY. Mr. President, this is quite an important matter, and I think it should go over for a day under the rule.

The VICE PRESIDENT. The joint resolution will go to the calendar.

LEGISLATIVE APPROPRIATIONS

The VICE PRESIDENT laid before the Senate the action of the House of Representatives receding from its disagreement to the amendment of the Senate No. 18 to the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes, and agreeing to the same with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert the following:

"For the completion of the approach to the Senate Office Building at the corner of Delaware Avenue and C Street NE., in general conformity with other similar treatments adjoining such building at the main entrance thereto, $500,000: *Provided*, That the Architect of the Capitol is hereby empowered to enter into contracts within the sum of this appropriation; for the necessary traveling expenses, advertising, purchase of material, supplies, equipment, and accessories in the open market; and the employment of all necessary skilled, architectural, and engineering personnel and other services, without reference to section 35 of the act approved June 25, 1910. The amount hereby appropriated to be disbursed by the disbursing officer of the Department of the Interior."

Mr. JONES. I move that the Senate agree to the amendment of the House to Senate amendment No. 18.

The motion was agreed to.

DEFINITION OF OLEOMARGARINE

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 6) to amend the definition of oleomargarine contained in the act entitled "An act defining butter; also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McNARY. I move that the Senate insist on its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. McNARY, Mr. NORBECK, and Mr. KENDRICK conferees on the part of the Senate.

PENSIONS AND INCREASE OF PENSIONS

Mr. ROBINSON of Indiana. Mr. President, I desire to enter a motion to reconsider the vote agreeing to the conference report on the bill (H. R. 12205) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and so forth, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, and move that the House be requested to return the report, with the accompanying papers, to the Senate. I will say to the Senate that this is the last omnibus pension bill passed, and in the conference report an error appears which should be corrected.

The VICE PRESIDENT. The first question is on the motion to request the House to return the papers.

The motion was agreed to.

The VICE PRESIDENT. That is all that can be done at the present time.

ENROLLED BILL PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that to-day, June 4, 1930, that committee presented to the President of the United States the enrolled bill (S. 1317) to amend section 108 of the Judicial Code, as amended, so as to change the time of holding court in each of the six divisions of the eastern district of the State of Texas, and to require the clerk to maintain an office in charge of himself or a deputy at Sherman, Beaumont, Texarkana, and Tyler.

SALARIES IN DISTRICT POLICE AND FIRE DEPARTMENTS

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 2370) to fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia, which was to strike out all after the enacting clause and insert:

That the annual basic salaries of the officers and members of the Metropolitan police force shall be as follows: Major and superintendent, $8,000; assistant superintendents, $5,000 each; inspectors, $4,500 each; captains, $3,600 each; lieutenants, $3,050 each; sergeants, $2,750 each; privates, a basic salary of $1,900 per year, with an annual increase of $100 in salary for five years, or until a maximum salary of $2,400 is reached. All original appointments of privates shall be made at the basic salary of $1,900 per year, and the first year of service shall be probationary.

SEC. 2. That the annual basic salaries of the officers and members of the fire department of the District of Columbia shall be as follows: Chief engineer, $8,000; deputy chief engineers, $5,000 each; battalion chief engineers, $4,500 each; fire marshal, $5,000; deputy fire marshal, $3,000; inspectors, $2,460 each; captains, $3,000 each; lieutenants, $2,840 each; sergeants, $2,600 each; superintendent of machinery, $5,000; assistant superintendent of machinery, $3,000; pilots, $2,600 each; marine engineers, $2,600 each; assistant marine engineers, $2,460 each; marine firemen, $2,100 each; privates, a basic salary of $1,900 per year, with an annual increase of $100 in salary for five years, or until a maximum salary of $2,400 is reached. All original appointments of privates shall be made at the basic salary of $1,900 per year, and the first year of service shall be probationary.

SEC. 3. That privates of the Metropolitan police force and of the fire department shall be entitled to the following salaries: Privates who have served less than one year, at the rate of $1,900 per annum; privates who have served more than one year and less than two years, at the rate of $2,000 per annum; privates who have served more than two years and less than three years, at the rate of $2,100 per annum; privates who have served more than three years and less than four years, at the rate of $2,200 per annum; privates who have served more than four years and less than five years, at the rate of $2,300 per annum; privates who have served more than five years, at the rate of $2,400 per annum: *Provided*, That privates in class 3 on the effective date of this act who have served less than six years shall be entitled to an annual salary of $2,200; privates who have served six years and less than seven years shall be entitled to an annual salary of $2,300; and privates who have served seven years or more shall be entitled to an annual salary of $2,400.

SEC. 4. That no annual increase in salary shall be paid to any person who, in the judgment of the Commissioners of the District of Columbia, has not rendered satisfactory service, and any private who fails to receive such annual increase for two successive years shall be deemed inefficient and forthwith removed from the service by the commissioners: *Provided*, That under such rules and regulations as the commissioners shall promulgate, the major and superintendent of police and the chief engineer of the fire department shall select and report to the commissioners from time to time the names of privates and sergeants in each department who by reason of demonstrated ability may be considered as possessed of outstanding efficiency, and the commissioners are authorized and directed to grant to not exceeding 10 per cent of the authorized strength, respectively, of such privates and sergeants in each department additional compensation at the rate of $5 per month: *Provided further*, That the commissioners may withdraw such compensation at any time and remove any name or names from among such selections.

SEC. 5. That, commencing with the effective date of this act, there shall be deducted for the benefit of the policemen and firemen's relief fund 3½ per cent of the monthly pay of each member of the Metropolitan police force, the fire department, the United States park police, and the White House police force. That hereafter, upon the separation from the service of any such member, except for retirement as authorized by existing law, he shall be refunded the deductions made from his salary for said fund, and should any such member subsequently be reappointed to any of such police forces or the fire department he shall be required to redeposit to the credit of the policemen and firemen's fund the amount of deductions refunded to him. In the case of the death of any such member while in the service the amount of his deductions shall be paid to the legal representative of his estate, provided he leaves no widow or child or children entitled to and granted relief payable from said fund.

SEC. 6. That no increase shall be granted or paid in the pension relief allowance of any person now on the retired roll as the result of increases in salaries authorized by this act, and the Commissioners of the District of Columbia are hereby empowered to determine and fix the amount of the pension relief allowance hereafter granted to any person under and in accordance with the provisions of section 12 of the act entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1917, and for other purposes," approved September 1, 1916, and acts amendatory thereof.

SEC. 7. That this act shall be effective on and after July 1, 1930.

Mr. CAPPER. Mr. President, I move that the Senate disagree to the amendments made by the House, and ask for the appointment of a committee of conference on the disagreeing votes of the two Houses.

Mr. PHIPPS. Mr. President, before a vote is taken on that motion, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Allen	Brock	Frazier	Hale
Ashurst	Broussard	George	Harris
Baird	Capper	Gillett	Harrison
Barkley	Connally	Glass	Hawes
Bingham	Copeland	Glenn	Hayden
Blaine	Couzens	Goff	Hebert
Blease	Cutting	Goldsborough	Heflin
Borah	Deneen	Gould	Howell
Bratton	Fess	Greene	Johnson

Jones	Norbeck	Sheppard	Thomas, Okla.
Kean	Norris	Shipstead	Townsend
Kendrick	Nye	Shortridge	Trammell
Keyes	Oddie	Simmons	Tydings
La Follette	Overman	Smoot	Vandenberg
McCulloch	Patterson	Steck	Wagner
McKellar	Phipps	Steiwer	Walsh, Mont.
McMaster	Pine	Stephens	Waterman
McNary	Ransdell	Sullivan	Watson
Metcalf	Robinson, Ind.	Swanson	Wheeler
Moses	Robsion, Ky.	Thomas, Idaho	

The PRESIDING OFFICER (Mr. FESS in the chair). Seventy-nine Senators having answered to their names, a quorum is present.

Mr. PHIPPS. Mr. President, Senate bill 2370, for increases in the pay of policemen and firemen, and others, is one which I am anxious to see pass, and I believe the form in which it comes to us now from the House is the form in which it should be agreed to by the Senate. Allow me to say that the bill came up for passage in the Senate during my absence, while an amendment covering several features of the bill was on file, and was laid before the Senate, but was not explained by any Senator, and I do not think the Senate fully understood at the time just what was involved in the amendment.

One feature was that of the retirement pay. We have to-day, and this will illustrate the point briefly, three former superintendents of police drawing retirement pay at the rate of $2,600 per annum. The passage of this bill in the form in which it went from the Senate to the House would immediately raise those rates of pay or pensions to $4,000 a year. That illustrates what would occur in the case of superintendents and captains and others who are now drawing retirement pay at one half the rate of their former pay or the present rate of pay.

I am not at all opposed to an increase in the rates of pay, but I do think that the retirement pay of those who are on the list should not be advanced by reason of this bill and I do believe that the retirement pay should be put on practically the same basis as that which prevails with regard to the schoolteachers of the District and others who draw retirement pay.

As a matter of fact, the rate of deductions which have been made and are being made at the present time is 2½ per cent instead of 3½ per cent. I want to revert just a moment to the fact that the difference, as we figure it, in the amount of increase of retirement pay which would be given to those now on the retired list would amount to $90,000 a year.

The rate of deductions on salaries for the purposes of retirement pay in other cases is 3½ per cent, and the amendment made by the House would put it on that basis, 3½ per cent. Yet the amount to be recovered in that way, the amount paid in by the employees of these departments, would figure about $192,000 a year, whereas the amount to be paid out as retirement pay or pensions would total $800,000 a year, or a difference of $608,000 to be paid out of the District treasury. That, to my mind, is the main feature that is in disagreement, and I feel that the House amendment should be agreed to.

The other items in the bill in disagreement are those relating to the pay of the policemen and firemen. The present scale of rate is the basic pay of $1,800 a year, with an annual increase of $100 a year for three years, making the total pay $2,100; that is the top rate of pay. The new bill, starting at $1,900 a year, gives an annual increase of $100 a year for the period of five years.

The bill as it passed the Senate would raise the pay of those who have been in the service five years by the amount of $300 a year immediately. The basic rate, of course, is increased $100 a year in the Senate bill and in the House bill.

Under the bill as it now comes back from the House those in the so-called third class, who have served five years or longer, would immediately receive an increase of $200 a year; those who have served six years or more would receive an increase of $300 a year, and those who have served seven years or more would receive an increase of $400 a year, or the full rate of pay.

The bill as it went from the Senate to the House would involve an increase of nearly $700,000 a year. The bill as it comes back from the House would mean an increase the first year of $555,000, and the balance of $160,000 would be distributed over the two following years.

Mr. President, I fear that unless the Senate accepts the amendment made by the House, there is great danger of losing this bill in conference, and I do not feel that for the difference which is involved in this rate of pay, whereby, under the Senate bill, the full increase of $400 a year would be given those who have served over five years, as against distributing it over the first three years of the operation of the bill, should stand in the way of concurring in the House amendment.

Therefore, Mr. President, I move that the Senate concur in the amendment of the House.

The PRESIDING OFFICER. The question is first on agreeing to the motion to request a conference.

Mr. PHIPPS. I believe the motion I have made is one which takes priority.

The PRESIDING OFFICER. No; the ruling is that the question is first on the motion to request a conference.

Mr. PHIPPS. Of course, if that is the ruling of the Chair, I stand corrected, but my information was to the contrary.

The PRESIDING OFFICER. The Chair has the rule before him.

Mr. CAPPER. Mr. President, I have made a motion to disagree to the amendment made by the House and to ask for a conference. I hope that motion will stand, and that it will be agreed to.

I realize that there are differences of considerable consequence between the Senate and the House on the bill, and I think the proper and the regular and the orderly way to work out those differences is through the channel of a conference committee.

I will say that the bill had careful consideration on the part of the Committee on the District of Columbia. It was before the committee for many months. It was, under the usual practice, referred to our subcommittee on police and firemen, and that subcommittee, of which the Senator from Kentucky [Mr. ROBSION] is chairman, conducted hearings, at which there were present the officials of the District of Columbia who are interested in the salary roll, and there were present also representatives of all the leading business and civic organizations of the city. There has been no measure considered by the Committee on the District of Columbia that has had more universal support than this bill proposing to adjust the salaries and the retirement pay of policemen and firemen.

The amendments suggested here by the Senator from Colorado were considered on the floor before the final passage of the bill, but, as I have said, there are differences, and I think the way to adjust those is through the usual channel of a conference committee.

Mr. PHIPPS. Mr. President, just a word. I think the Senator from Kansas is mistaken in saying that the amendments submitted by me were considered on the floor. The RECORD will show that the features which I have mentioned this morning in my brief remarks were not brought out, and were not considered.

As to the consideration in the Committee on the District of Columbia, I do not care to criticize the committee, but I do know, and I was told by two members of the subcommittee themselves, that on account of their other duties they were unable to give any consideration whatever to this bill, and had never consulted with regard to it.

It is true that all of the organizations in the city favored increases to the policemen and firemen, but I submit that none of them had gone into this question and knew what it involved. I know that personally I have spent some time on this bill, although I did not care to. It just so happened that I was recognized by the Chair when I thought I should properly object to immediate consideration of a bill of this importance, just reported out from a committee. I was recognized by the Chair, and it devolved on me to follow up the question.

I conferred with the commissioners and with the auditor, and I found immediately that the recommendations of the commissioners and of the auditor of the District had been set aside, at least, they had not been adopted, and I know that the amendment as I outlined it, which has now been practically adopted by the House, with some slight modifications, is the amendment that was favored by the commissioners and by the auditors and others interested and agreed to by the chief of police and the chief of the fire department.

Mr. BORAH. Mr. President, before the Senator takes his seat, will he state in a sentence just what the difference is between these two propositions? Is it a question of raise of salary?

Mr. PHIPPS. It is a question of the time at which part of the raise will become effective. They will all get the raise, but instead of those men who have been in the service for five years immediately getting an increase of $400, they will get $200, the following year they will get an additional $100, and the next year another $100. That is all that is involved in the question of pay.

On the question of retirement pay, the bill as the Senate sent it to the House would mean that those who are on the retired list would immediately have their pay advanced, so that instead of drawing 50 per cent of the present rate of pay, they would draw 50 per cent of the new rate of pay, and in the instance of retired chiefs of police, of whom we have three on the retired list, instead of drawing $2,600 a year, they would draw $4,000

a year. The Committee on the District of Columbia of the Senate disregarded the recommendation of the commissioners and the auditor in writing that into the bill.

Mr. ROBSION of Kentucky. Mr. President, the Senator from Colorado is usually very clear, but I confess that I do not catch his point of view; I do not understand this matter as he appears to understand it.

Let us start at the beginning. Of course, Congress provides a lump sum for the District of Columbia, and this increase of pay to the police and fire departments will be borne by the taxpayers of the District of Columbia. Therefore our committee was very anxious to have the viewpoint of the taxpayers of the District of Columbia.

We had before the committee the head of the Federation of Citizens' Associations, and the proposition was put to him as to whether or not his association, in voting on this matter, understood that the taxpayers of the District of Columbia would have to bear this burden. He stated that they did understand that, and that they were unanimously in favor of it.

Then we had before our committee the head of the Merchants' Association, and we got the same response. We had before our committee the heads of the board of trade and the chamber of commerce, and other men like that, who strongly favored this bill as it was written and as it was introduced.

Mr. PHIPPS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Colorado?

Mr. ROBSION of Kentucky. Certainly.

Mr. PHIPPS. I would like to ask the Senator if he is sure he is giving their opinion in saying that the city is willing to spend $883,000 a year in additional taxation to make these advances, and that they were talking about the bill as advocated by the commissioners and the auditor or the bill as reported and passed by the Senate? There is where the difference arises.

Mr. ROBSION of Kentucky. I drew that distinction. So far as I was concerned, I thought it was to the advantage of the District to have the higher rates of pay. The auditor has submitted his report and the commissioners have submitted their report recommending a reduction in the rates of pay of the higher officers amounting to $13,500 a year, but in all other respects the auditor for the District of Columbia and the commissioners approved the bill as introduced by the Senator from Kansas [Mr. CAPPER].

Mr. PHIPPS. But they advocated the additional clauses which would take care of the retirement pay.

Mr. ROBSION of Kentucky. They advocated 3½ per cent instead of 2½ per cent; that is true. I would make clear to the Senator the amount the bill involves and what the taxpayers would have to pay. The people are satisfied that these men are not getting enough money and that they are getting less than the police and firemen in nearly every other city in the country. In fact, the raises we propose will still leave their pay below the pay of the police in nearly all cities of the country.

Mr. PHIPPS. While it is true that the District has been receiving only $9,000,000 a year from the Federal Government on account of its expenses, the fact is that the law to-day stands on the statute book on the 60–40 basis, and the Senate will follow, I am sure, what many of us believe is the proper policy in seeing to it that that niggardly sum of $9,000,000 a year is increased.

Mr. SWANSON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Virginia?

Mr. ROBSION of Kentucky. I yield.

Mr. SWANSON. I was not in the Chamber when the discussion began, and I would like to get a correct idea as to the issue involved. As I understand it, the Senate District Committee reported the bill, and the Senate passed it; the House then passed it with an amendment; and the question is whether the original Senate bill or the bill as amended by the House shall be accepted.

Mr. ROBSION of Kentucky. The motion of the Senator from Kansas [Mr. CAPPER], the chairman of the District Committee, is that the matter be referred to conference.

Mr. SWANSON. And that we have a conference to iron out the differences between the two Houses?

Mr. ROBSION of Kentucky. Yes.

Mr. SWANSON. Who is proposing that we make an abject surrender to one man in the House?

Mr. ROBSION of Kentucky. The Senator from Colorado [Mr. PHIPPS] proposes that the Senate accept the House amendment.

Mr. PHIPPS. I do it on my own responsibility and because I do not want to see the bill lost entirely. If the bill goes to conference, I warn the Senate that the chances are it will not be passed at this session of Congress.

Mr. SWANSON. I, for one, am tired of taking the dictation of the House on these matters.

Mr. ROBSION of Kentucky. I am tired of this particular feature of the situation. There has been no bill more carefully considered by a committee than this very police and firemen's pay bill. There is no bill that has had such unanimous support as has this bill—I mean by the people who are going to carry the burden and pay the taxes. We did, in deference to the wishes of the Senator from Colorado and in keeping with the recommendation of the auditor and the commissioners, reduce the pay of the chiefs of the fire and police departments $500 a year, and then reduced proportionately the pay of some assistants under them.

With those exceptions the bill as drawn by the Senator from Kansas and reported out by the District Committee was passed by the Senate. Then it went to the House. I am sure that every Senator has observed in the press from day to day that Representative SIMMONS said that the bill would never pass unless it met his approval. It went to the District Committee of the House and I understand they unanimously indorsed it and reported it out. When it came to consideration on the floor of the House Representative SIMMONS said it should not be considered in the House unless they went to him and saw him and made an agreement with him. We are not surrendering to the House, but we are surrendering to Congressman SIMMONS, a member of the House Appropriations Committee.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Idaho?

Mr. ROBSION of Kentucky. I yield.

Mr. BORAH. How can that be done in the House? I want to know just as a matter of curiosity. It is an interesting proposition.

Mr. ROBSION of Kentucky. It could only come up in the House in one of two ways, either by a special rule of the House or under a suspension of the rules. The House Rules Committee did not report a rule, and of course it was then up to the Speaker to determine whether or not he would recognize anyone to bring up the bill under a suspension of the rules. It was not permitted to come up unless the contention of Representative SIMMONS was agreed to.

Mr. BORAH. And that is the House of Representatives!

Mr. ROBSION of Kentucky. Yes; that is the House of Representatives, a very distinguished body.

Mr. SWANSON. As I understand it, the motion now pending is to refer the matter to a committee of conference?

Mr. ROBSION of Kentucky. Yes.

Mr. SWANSON. That is the specific motion?

Mr. ROBSION of Kentucky. That is the motion of the Senator from Kansas [Mr. CAPPER].

I want to allude to some points raised by my distinguished friend from Colorado [Mr. PHIPPS]. Under the present law a policeman or fireman enters the service at $1,800 per year. After one year of probationary service he is either let out or retained, and if he is retained in the service he remains at $1,900 per year. Then, for each of the succeeding two years he is given an additional $100, making his maximum pay $2,100.

The bill proposes that he shall enter at a salary of $1,900 per year, and after five years, with a step up each year of $100, he shall receive $2,400 per year. The bill provides that if the record of a policeman or fireman is such that those in charge think he is not entitled to this step-up after a period of two years, then he is dropped from the service as inefficient.

Mr. SWANSON. Of course, we are anxious to get legislation that is not the result of the imperial decision and will of one man, and we have to do it by availing ourselves of the rules of the House and the Senate. From my knowledge of the rules of the House, if the bill goes to conference, the conferees will be members of the District Committee on the part of the Senate and of the District Committee on the part of the House. Is not that true?

Mr. ROBSION of Kentucky. Yes.

Mr. SWANSON. If they make a report after agreement, it goes to the House, and a motion to proceed to the consideration of a conference report is a privileged motion. They can move to take it up and a majority of the House can agree to that motion and can record the will of the House, as a majority can do in the Senate. That is the only procedure by which the matter can be concluded, is it not?

Mr. ROBSION of Kentucky. Yes; unless we adopt the motion of the Senator from Colorado [Mr. PHIPPS] to accept the amendment of the House, and I do not think we ought to do so. It is unfair to those persons for whom we are undertaking to legislate.

It is unfair to the people of the District of Columbia, because they insist that their policemen and firemen shall have better pay so they can insist upon higher requirements for membership in the service.

To show how it affects the pay of the men in the lower grades in the service, and those are the ones about whom I am mostly concerned, under the bill as it passed the Senate, if a man has been in the service for five years and has proved to be a good policeman or a good fireman, he goes to $2,400 per year at once; but under the Phipps amendment he may have had five years of service, or even up to six years, and still be held to $2 200 per year. That will involve a large number of men in the service. It will involve 357. Then, a man must have at least six years and not more than seven years of service before he can go to $2,300 a year. He must have at least seven years or more of honest, active, faithful service to reach the maximum of $2,400.

I think the policemen of this city ought to have $1,900 as entrance salary. In the city of New York, where the people voted directly on the question, the policemen were given an entrance salary of $3,000 per year. Is not that correct, may I ask the Senator from New York?

Mr. COPELAND. That is correct.

Mr. ROBSION of Kentucky. We can not expect to have the high type of men who must take care of and protect the lives and property of the people of the District of Columbia and handle visitors from all parts of the country unless we pay salaries which will attract men of the highest qualifications and best fitted for those positions.

As to the 2½ or 3½ per cent deduction for retirement pay, we have a different retirement plan for firemen and policemen than for the teachers and others engaged in the Government service. In fact, as I understand the present law, anyone in the police department or fire department retires at half pay. That is not true as to the retirement of any other Government employee. The retirement act applying to the police and fire departments of the District of Columbia is drawn according to the practice in nearly every city of the country. If the rate should be increased from 2½ per cent to 3½ per cent, we would have a different retirement law from any other city in the country, so far as we have been able to learn.

I think the measure as approved by our committee and as passed by the Senate and as approved by the House Committee on the District of Columbia is just and fair and ought to become the law. At least, the motion of the Senator from Kansas [Mr. CAPPER], chairman of the Senate District Committee, should prevail, sending the bill to conference, so that whatever differences there are between the House and Senate may be ironed out and reported back to the two bodies.

Mr. BARKLEY. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to his colleague?

Mr. ROBSION of Kentucky. I yield.

Mr. BARKLEY. I have not been able clearly to understand the situation. What is the differenee between the rate of pay carried in the bill passed by the House and the Senate bill as to police and fire department privates?

Mr. ROBSION of Kentucky. The difference is in the number of years required to reach the maximum pay. I will give my colleague just a few figures.

Mr. BARKLEY. Before the Senator does that let me ask another question. Under both bills they enter the service at the same rate?

Mr. ROBSION of Kentucky. They enter the service at $1,900.

Mr. BARKLEY. I understand the maximum is $2,400?

Mr. ROBSION of Kentucky. Yes; under the Senate bill.

Mr. BARKLEY. But between the two figures of $1,900 and $2,400 the arrangement is different, depending upon the length of service of the men, as between the House and the Senate?

Mr. ROBSION of Kentucky. Yes.

Mr. BARKLEY. It is less favorable in the House provision to the men than in the Senate bill?

Mr. ROBSION of Kentucky. Very much so; because under the bill as it was drawn, all those in the service in the police or fire department as privates, who have been efficient and capable, with five years of service will at once go to $2,400; but under the amendment proposed by the Senator from Colorado [Mr. PHIPPS] they will go only to $2,200. There is a difference of $200 a year.

Mr. BARKLEY. When would they be able to reach $2,400?

Mr. ROBSION of Kentucky. Under the House proposal they must have seven years or more of service.

Mr. BARKLEY. So a 5-year man now could not reach $2,400 until he is in the service two years more under the House provision?

Mr. ROBSION of Kentucky. Yes. In other words, there will be 800 men who will not go at once to $2,400, but who will go from $1,900 to only $2,300.

Mr. COPELAND. Mr. President, the customary procedure when there is a difference between the two Houses is to have a conference, and I trust the motion of the Senator from Kansas [Mr. CAPPER] that that shall be done will prevail. I think the conference committee will work out a plan of adjustment and will bring back a report that will be acceptable to the Senate as well as to the House of Representatives; and I trust the motion may prevail.

The VICE PRESIDENT. The question is on agreeing to the motion of the Senator from Kansas.

Mr. ROBSION of Kentucky. Mr. President, I am not trying to put on other taxpayers of the District of Columbia something that I do not put on myself, because I, too, am a taxpayer in the District. I think this bill is fair, and I am willing to pay my part of the taxes which will be imposed by reason of its passage.

Mr. GEORGE. Mr. President——

Mr. BARKLEY. Mr. President, I wish to say a word about the pending matter.

Mr. GEORGE. I yielded the floor some time ago on the theory that it would require about five minutes to dispose of the question under consideration, and it has now consumed some 30 minutes.

Mr. BARKLEY. If it is necessary to get a vote on the question, I shall forego the pleasure I usually indulge in speaking.

Mr. GEORGE. I am quite willing to yield to the Senator from Kentucky.

The VICE PRESIDENT. The question is on the motion of the Senator from Kansas. By the sound the ayes seem to have it.

Mr. PHIPPS. Mr. President, I ask for a division.

On a division, the motion of Mr. CAPPER was agreed to.

The Vice President appointed as conferees on the part of the Senate Mr. CAPPER, Mr. JONES, Mr. ROBSION of Kentucky, Mr. GLASS, and Mr. COPELAND.

REVISION OF THE TARIFF—CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on certain amendments of the Senate to the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes.

Mr. GEORGE. Mr. President, the tariff bill which is now before us in the form of a conference report passed the House of Representatives on May 28, 1929. When, after hearings before the Finance Committee, the bill was reported to the Senate for consideration, by agreement, the special provisions, Title III, and the administrative provisions, Title IV, of the bill were taken up for consideration prior to considering the rate schedules. A mass of special provisions and administrative provisions had grown up under previous tariff acts without very thorough consideration by the Congress. Transposing the order of consideration resulted in a careful review of the special provisions and administrative provisions of the measure. The conference report writes out of the bill as it passed the Senate practically all of the liberalizing amendments adopted to the administrative provisions and special provisions of the bill.

When the bill came before the Senate for consideration there were those of us who earnestly sought to take tariff making out of politics as far as possible. The House had provided for a purely partisan Tariff Commission of seven members. The Finance Committee itself recognized the propriety and the advisability of creating a commission of six members, to be composed of men appointed from the two political parties. That provision was retained in the bill, and while the bill was under consideration in the Senate I offered an amendment, which was accepted, to alternate the chairmanship of the commission as well as the vice chairmanship between the groups representing the two political parties.

The purpose of that amendment was to take the tariff, as far as possible, out of politics. Everyone knows that the Tariff Commission, presided over by a chairman, who holds the office continuously, tends to become a purely political body, reflecting partisan views. Even the experts of the commission find it necessary, or at least deem it advisable, to recognize the chairman and to conform, more or less, to the views and wishes of the chairman and vice chairman of the commission even in the making of their investigations.

So, Mr. President, the amendment providing for rotation in the offices of chairman or vice chairman was offered, and was accepted, by this body without any opposition whatsoever. That amendment would have been of real value to the commis-

sion, assuming that it is the purpose of the administration, and assuming that it is the desire of the Congress to take the tariff, as far as possible, out of politics.

Mr. President, notwithstanding the fact that that provision was not resisted at all in this body, the conferees proceeded to eliminate it. It can not be that there was any serious insistence upon that provision on their part or any presentation of the facts that ought to control men in considering legislation in a conference committee. If there was any serious insistence, then the conferees on the part of the House were entirely unreasonable, and I do not assume that they were perversely unreasonable in their consideration of this question.

Another amendment, Mr. President, which I had the honor of offering was one creating a consumers' counsel. There is no argument which any reasonable man can make against that amendment, which was adopted in the Senate after prolonged debate. I measure my words when I say there is no argument against that amendment that can be maintained by any man who wants the people of the United States to have a fair deal in the consideration of questions involving the making of tariff rates.

That amendment, after full consideration, was adopted by this body by the overwhelming vote of 68 to 11; and yet the conferees have stripped the bill of that amendment. The whole effort of the conferees, the whole effort of the administration, though words of denial may be multiplied by the million, is to make of the Tariff Commission a purely partisan body. The Republican majority want a partisan consideration of the tariff.

Mr. President, if the provision creating the consumers' counsel had been permitted to remain in this tariff bill, it would have been possible for the Tariff Commission to have maintained a quasi judicial attitude in the determination of tariff questions. It is not possible for it to do so in the absence of some one to represent both sides of a controversy before it. Those who want increases in tariff rates are able to employ counsel who can go before the commission and plead for an increase in rates.

On the other hand, those who have the greatest stake in reducing tariff rates are frequently unable to employ special counsel; their several interests are so small, indeed, as not to justify the employment of special counsel or special agents to appear before the commission. So, Mr. President, with a consumers' counsel, charged with the responsibility and clothed with the power of representing the masses of the people of the United States, representing all those except the importers and the manufacturers and the relatively few, compared with our entire population, who depend upon the importers or the producers for employment, if this amendment had been permitted to remain in the bill, the Tariff Commission could with confidence have expected both sides of questions to be presented to it and could have maintained the position which would have given it a quasi judicial standing in the country, with consequent confidence upon the part of the people, the general public, in its deliberations and in its findings.

What reasonable argument is there against the amendment which the conferees abandoned? What possible argument is there against it, particularly when the Tariff Commission is not to be bipartisan? It is true that three men are to be appointed representing one political group and three another; but the provision which took the control and power out of the hands of one political party by requiring a rotation of the chairmanship and vice chairmanship was stricken down by the conference committee, and it must be assumed that that was done with the approval of the President, who insisted upon the return to him of the power he now possesses under the flexible provisions of the present tariff law.

Mr. President, not only was this amendment creating a consumer's counsel adopted by the Senate by a vote of 68 to 11, but, according to the announcement made at the time of the vote, one of the Senate conferees was paired in favor of it. Those who supported this simple amendment, which would have been of substantial benefit to the American people, to the consumers, may well turn to the distinguished leader of the Republican Party, and say, "Thou, too, Brutus," because, in my judgment, there was no real effort to retain this provision in the bill. It is not possible to assume that there was any serious effort, because, had there been, there could have been no argument upon which the conference committee could go to the country and say, "We killed the tariff bill because we are unwilling to let the consumers have a voice in tariff making. Our President and our party confess and profess that it is desirable to have a nonpartisan Tariff Commission; and yet we permitted a tariff bill to die because we would not permit the rotation between the two political groups represented on the commission of the chairmanship of the commission, and because we would not permit the creation of a counsel charged with the sole responsibility of representing the consumers, those who have no special interest, those who have no selfish interest at stake, in the tariff making."

I therefore say, Mr. President—and I invite the conferees, one of whom, at least, is present, to defend the contrary if he wishes to assert it—that there was no bona fide effort made to retain in this conference report these two important provisions.

Mr. President, the provision inserted upon the motion of the Senator from Nebraska [Mr. NORRIS], the antimonopoly provision of the act, was likewise abandoned, and that is out of the bill. Then, of course, the flexible provision of the bill was entirely rewritten. So far as these two amendments are concerned, especially the latter, there is legitimate ground for debate. I do not assert the contrary; but if the President of the United States wants an impartial commission, if he wants even a bipartisan commission, if either House of Congress wants an impartial commission or a bipartisan commission, there is no ground for debate if you are willing to let the tariff bill die rather than alternate the chairman of the commission, and rather than give the consumers of this country the right to be represented by a special attorney or a special counsel whose sole duty it is to represent the interests of the consumer.

Mr. SIMMONS. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from North Carolina?

Mr. GEORGE. I yield to the Senator.

Mr. SIMMONS. The Senator is making a very pertinent and powerful argument, and presenting to the Senate certain things that I think Senators ought to hear. Would the Senator have any objection to a point of no quorum?

The VICE PRESIDENT. Does the Senator yield for that purpose?

Mr. GEORGE. I yield for that purpose, Mr. President.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Allen	Gillett	La Follette	Shortridge
Ashurst	Glass	McCulloch	Simmons
Baird	Glenn	McKellar	Smoot
Barkley	Goff	McMaster	Steck
Bingham	Goldsborough	McNary	Steiwer
Blaine	Gould	Metcalf	Stephens
Blease	Greene	Moses	Sullivan
Borah	Hale	Norbeck	Swanson
Bratton	Harris	Norris	Thomas, Idaho
Brock	Harrison	Nye	Thomas, Okla.
Broussard	Hawes	Oddie	Townsend
Capper	Hayden	Overman	Trammell
Connally	Hebert	Patterson	Tydings
Copeland	Heflin	Phipps	Vandenberg
Couzens	Howell	Pine	Wagner
Cutting	Johnson	Ransdell	Walsh, Mont.
Deneen	Jones	Robinson, Ind.	Waterman
Fess	Kean	Robsion, Ky.	Watson
Frazier	Kendrick	Sheppard	Wheeler
George	Keyes	Shipstead	

The VICE PRESIDENT. Seventy-nine Senators have answered to their names. A quorum is present.

Mr. GEORGE. Mr. President, the conference committee likewise eliminated the antimonopoly provision to which I have already referred.

The only argument advanced against this provision of the bill—the only argument advanced anywhere, on this floor, or in the press, of any substance—is the argument that if the duty were withdrawn from the monopoly, nevertheless the independent producer not in the monopoly would be left without protection.

Mr. President, the amendment itself went upon the theory that the duty would not be withdrawn, or the industry would not lose the duty imposed by the tariff act, until and unless it appeared to the court that a monopoly in that particular industry in fact existed. If a monopoly is found to exist, and if it in fact does exist in any industry, a tariff duty is of slight benefit to any independent unit endeavoring to engage in that industry; because if the field is completely dominated by monopoly, the whole argument, of course, comes to nothing. There can be no possible benefit from a tariff rate to an independent concern manufacturing the same commodity or same product if the field is completely dominated by the monopoly.

Mr. President, I am not going to discuss the flexible provision of the tariff act further than to say:

We can discover the merits or demerits of a provision by ascertaining who is for and who is against it. I therefore assert, whatever lengthy argument is indulged in by those who favor it, that every selfish interest in the country favors the Executive flexible tariff. Every concern that wants a higher rate of duty, that wants a higher tax upon the American people, favors the Executive flexible provision. They favor this

conference report. They favor the provision that the President is said to approve and is said to favor. Every privilege seeker, every special-interest seeker favors the Executive flexible provision.

That is a fair test to apply. If you will go through the country and catalogue those who are seeking special favors from the Government, those who desire some special grant of power, almost invariably you will find supporters of the Executive flexible tariff or the conference report. There are those who are entirely unselfish who favor it, but the selfish interests all favor it.

Mr. VANDENBERG. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Michigan?

Mr. GEORGE. I yield to the Senator.

Mr. VANDENBERG. I wonder if the Senator is not in difficulty when he undertakes any such classification. For instance, the automotive industry of the United States, which is probably the greatest of all industries to-day, finds substantial fault with this bill at many points, as the Senator knows; but I think it is unanimous in an aggressive interest in the flexible provision. Would the Senator attribute that to selfish interest, or would be concede that perhaps it was born of a legitimate and honest and proper belief in taking business out of a static condition?

Mr. GEORGE. I stated that not all who favored it were in that category; but I do not qualify my statement that wherever we find special interests that want special favors of Government, that thrive upon those special favors, and that demand them, we find them in favor of the flexible provision; and wherever we find one who distrusts popular government, who distrusts the processes of popular government, we find a supporter of the Executive flexible tariff provision.

Do not misunderstand me. There are, of course, innumerable good men and good women who believe in this flexible provision for one reason or another, who have no selfish interest to serve; but the selfish group, those who want special favors, those who demand special favors, want it almost to the last man.

Mr. President, the principle involved in the flexible tariff provision is fundamental, and it is not, therefore, surprising to find men in this country who thoroughly distrust popular government, who have no faith or confidence in it, who do not believe that the Congress can legislate effectively or speedily, but who believe that the President or some restricted number of men must necessarily have the tariff-taxing power if it is to be properly exercised.

When you analyze it, it is the old antipathy to democracy or popular government; it is the old concept that men must be governed by some one in authority.

I have no disposition to enter into a discussion of the details, but I want to make a broad classification and I want to say that every selfish interest and its allies, every concern that demands special grants from the Government approves the flexible provision written into the bill by the conference committee. I do not say that all who favor it fall in the category, but those who are properly in the category are 100 per cent for it.

Again, I wish to make a broad classification; all those who distrust popular government, from the White House down, all those who have no confidence in the processes of popular government, all those who believe that ordinary men are not capable of governing themselves through elected representatives, but who insist that this extraordinary power must be exercised by someone in authority or some restricted group, demand the flexible provision which the conferees wrote into this bill.

There are others who approve it who yet do not distrust popular government and do not question the capacity of men to govern themselves, but every Tory—and they exist now as they have always existed—every Tory in the United States does favor it.

The conferees wrote out the provisions of the bill which would have made the tariff body a nonpartisan body; they wrote out every line which looked to making it a judicial or a quasi-judicial body. They would have no impartial head of that commission.

They would have no consumers' counsel to raise even a feeble voice for the general consumer. They would have no antimonopoly provision in the bill, upon the flimsy reasoning that there might be somebody not in the monopoly enjoying the benefit of a just tariff, when, if monopoly exists in the field at all, no one is permitted to enjoy anything but the monopoly itself. They would have no flexible provision requiring the commission to send tariff increases or reductions back to the representatives of the people for final approval or disapproval.

Go through the administrative provisions of this bill, the special provisions of the bill, and there is not left in it a line of liberal legislation. Every line has been eliminated. Every liberal provision has been written out of it.

I want to repeat, no set of conferees could face the American public and could say, "We let the tariff bill die because we were not willing for the people to have a counsel in the commission; because we were not willing to give the country a nonpartisan commission; or because we were not willing to deny monopoly tariff benefits."

The conferees could not justify that position before the country, and the six eminent gentlemen who represented the majority party, three in the House and three in this body, would not undertake to justify it. Therefore the Senate conferees, when they were tempted, yielded quickly in order to avoid the struggle.

Mr. CONNALLY. Mr. President, will the Senator yield?

Mr. GEORGE. I yield.

Mr. CONNALLY. Let me ask the Senator from Georgia if it is not a fact that the two real questions in issue between the Senate and the House were the flexible tariff provision and the debenture provision, and how does he account for the fact that these bold, stiff-backboned conferees on the part of the Senate, surrendered on both of those questions if they really made any effort at all to secure the adoption of the Senate's attitude on either one?

Mr. GEORGE. I will say to the Senator that I can not believe that they unduly exercised themselves to win anything which the Senate had written into this bill, because I have gone through these administrative provisions, I have looked at these special provisions in the bill; and not one of them which looked toward liberalizing the law, not one of them which undertook to create an impartial tariff commission, not one of them which granted a right to the general public—the general consumer—as opposed to the importer or producer, not one of those provisions was allowed to remain in the bill, notwithstanding the fact that some of them were accepted here without controversy.

When I offered the amendment to rotate the chairman and vice chairman of the Tariff Commission in the interest of making it a nonpartisan body as far as possible, to the end that the cliques which grow up in the commission might not continue to exist, not a voice was raised against it; it was accepted without protest by this body. Yet the Senate conferees come before us and in effect say, "The House was so unreasonable that it would have killed the tariff bill if we had rotated the chairman of the Tariff Commission." The suggestion is so absurd that I beg pardon for even discussing it or referring to it.

The conferees come before the Senate and say that the House conferees and the House were so unreasonable that they would allow the tariff bill to die rather than to let the people, the consumers, have a counsel in the commission to present their side of a case. The suggestion is so absurd that I again beg the Senate's pardon for referring to it.

There might be a slight argument about the antimonopoly provision, but every monopoly wanted it out of the bill, everyone who wanted to exploit the American people wanted it out of the bill. Very few good men who did not want monopoly to extract money from the pockets of the American people were really opposed to it. There were some good men, however, who opposed it, honest men; but every monopoly likewise opposed it, every trust opposed it, every combine opposed it, the administration must have opposed it, as it did the legislative flexible provision, or the conferees would not have written it out of the bill.

Take all the liberalizing amendments, tabulate them, and put into categories those interests in this country which can be catalogued, and every selfish, every privilege-grabbing, every interest-hunting, every concern which lives off the favors of government, wanted to take out the simple amendment providing for the rotation of the chairman of the commission, wanted to take out the provision giving the people's counsel an opportunity to present facts in behalf of the people. Every one of them wanted to strike down the antimonopoly provision inserted on motion of the Senator from Nebraska.

Mr. President, on the flexible-tariff provision the same interests approve the conference report, and the last thing on earth they desire is the Senate provision. The one thing they did not want was the provision which the Senate wrote into the tariff bill, a simple provision, a provision that the Tariff Commission, a judicial body, should make the investigation and submit its report to the President, who in turn should send it to the Congress, and the Congress could accept it or reject it without considering any amendment not germane to the commission's report.

There is but one difference between democracy and monarchy. Democracy is based upon the doctrine that the plain citizen

not only has the right but the capacity to govern himself. Monarchy, whatever the form, is based upon the directly contrary doctrine, that the plain citizen has neither the right nor the capacity to govern himself, to carry on his business without assistance of some one in authority. Anyone acquainted with the history of the Tariff Commission, anyone who knows that in eight or nine years it has actually made only about 37 final recommendations, and that some of those recommendations are yet in the executive department, never having received Executive approval or disapproval; any man who believes that prompt action can be had through the commission making its report to the President rather than making its report to the Congress under the provision which we wrote into the measure that the Congress must consider that recommendation and must not entertain any amendment to it not germane thereto; any man who makes such assertion questions the capacity of men to carry on their own affairs through the use of the processes of free government.

Mr. President, the argument has been made and it will be made in the future that the President will, of course, approve the bill or that the President is justified in his approval of the bill or that the President acted wisely in approving the bill, because the flexible provision is in the bill and he can go through the law and revise all of the rates which are unreasonably high, and that he can in that way take care of the injustices in the bill. If I were President of the United States I would not want that argument made in my behalf. I would not appreciate the fact that my partisans in the country made or submitted that argument in my behalf.

The President called the Congress in extraordinary session and submitted to it two matters for consideration. The first was farm relief. There is no student of economics in the country who does not know that the farm relief act is superficial. It is not a question of whether the board is a board of able and capable men. The law itself is superficial; the remedy is superficial.

In addition, the President submitted the matter of the tariff. He has been in Washington all the while we have been considering the tariff. He has had an opportunity for 14 months or more to shape the tariff, to leave his impress upon it, to beat down the rates that were too high, and to raise any that were too low. Now, to say that he is justified in signing the tariff bill, if the conference report shall be approved, because it contains the flexible provision which he desires and which he approves and which will enable him to make just rates, is, it seems to me, to reflect upon the President of the United States.

If the President was not satisfied with any rate because it was too high, it is almost a direct challenge to his integrity to say that nevertheless he should approve the bill because, although it is known that the rates were too high and he has had it before him day after day during all of these months, he can now go along under the flexible provision and reduce those rates.

Let us see how absurd is the suggestion. If the Lord is good to Mr. Hoover and permits him to succeed himself, and if he lives out not only the first but the second term, then from July 4, 1930—which is probably about the time the bill will actually pass and receive his approval, if he does approve it—until the end of his term after this one there are only 2,088 days. There are 21,000 items in the tariff bill. The commodities entering into the commerce of the world at this moment total nearly 1,000,000 which are affected in one way or another by the tariff bill. Yet Mr. Hoover, the President, and his commission, within a possible limit of 2,088 days—and I have added in the extra days of two leap years—is going to find time to correct the rates affecting 21,000 items covering nearly 1,000,000 commodities.

The suggestion is so absurd that it does not seem to me that any responsible spokesman would make the contention upon the floor of the Senate or in the public press. Not only is it absurd but it is a direct intimation that Mr. Hoover is now going to approve what he deliberately allowed to become a law without raising his voice on the theory that he would have the power under the law to correct the mistakes and errors which are found to exist in the law.

To say, of course, that there will not be 21,000 items brought to the President's attention is to state the fact. The Tariff Commission—and we are going to have the same sort of commission—in nine years have submitted 37 final reports for Executive approval. Mr. Hoover, be it remembered, has not quite seven years to serve, even if, as I said, Providence is kind to Mr. Hoover and allows him to succeed himself in the White House for another term of four years. How can he correct all of those errors and how can his commission correct them—because he wants the same sort of commission?

Not only that, Mr. President, but the commission last week, I believe it was, issued a statement which was nothing more nor less than propaganda, pure propaganda in behalf of the tariff bill. The statement opened with the famous sentence which the distinguished Senator from Utah [Mr. SMOOT] said needed to be corrected by the supplying of one word. I will read it as he said it should have been printed:

> Agricultural commodities will have much to gain by the passage of the tariff act.

As it was printed it read:

> Agriculture will have much to gain by the passage of the tariff act.

No farmers are saying that, no farm organizations are saying that, but the members of the Tariff Commission who will come here for confirmation, if the President reappoints them, are making that statement, and it is pure propaganda here in the midst of the fight on the tariff bill. If it be made seriously their intelligence is open to question. So far as I am concerned, if I am persuaded that anybody on that commission calling himself a Democrat made that statement, and made it seriously, he will not get my vote if the President sends his name back for reappointment and confirmation. The idea of making any such statement as that without any distinction, just grouping all agriculture together and saying that all agriculture will receive great benefits from the tariff act is ridiculous.

Mr. President, the moment the debenture was taken out of the bill all substantial hope of benefit to American agriculture vanished. There are a lot of intelligent gentlemen, engineers in economics and in human happiness, and there are many representatives of the class press in the United States, who stand in awe if anyone dares say anything in behalf of the debenture. They can not imagine that we are entirely sane—certainly we are not sound—if we favor the debenture.

I want to call three witnesses. I do not want to call more than three. I am not going to call any farmers, because they do not know what they need; but if they should happen to know what they need, even then they do not know how to get it. They are not to be consulted at all about the kind of legislation that is to be enacted for them, so I shall not call any farmer witnesses.

First of all I want to call Alexander Hamilton, who in his great treatises on manufacturing in 1791 used this language:

> Duties of this nature [protective] evidently amount to a virtual bounty on the domestic fabrics, since by enhancing the charges on foreign articles they enable the national manufacturers to undersell all their foreign competitors.

He is now speaking about manufactures. But Mr. Hamilton proceeds to point out the difference between the producers for the country market or the home market and the producer, like the farmer, for the world market, and this is his language:

> It can not escape notice that a duty upon the importation of an article can not otherwise aid the domestic production of it than by giving the latter great advantages in the home market. It can have no influence upon the advantageous sale of the article produced in foreign markets—no tendency, therefore, to promote its exportation.

I quote further from Mr. Hamilton:

> The true way to conciliate these two interests is to lay a duty on foreign manufacture of the material, the growth of which is desired to be encouraged, and to apply the produce of that duty, by way of bounty, either upon the production of the material itself or upon its manufacture at home or upon both. In this disposition of the thing the manufacturer commences his enterprise upon every advantage which is attainable as to quantity or price of the raw material, and the farmer—

Listen to Mr. Hamilton—

> and the farmer, if the bounty be immediately to him, is enabled by it to enter into a successful competition with the foreign material.

I shall not quote further from Mr. Hamilton, but he indorsed the bounty for the producers of agricultural products. He was honest, he was square, and he was capable of clear thinking. He knew that there was no way of giving the farmer the benefit of the tariff except through the debenture, for that is all it is.

I am going to call another witness. I am going to call another distinguished Republican, Dr. Nicholas Murray Butler, president of Columbia University. He may not be an altogether orthodox Republican, but he is a Republican. I want to read his statement because there is no man living who can controvert the truth of his statement. He sums up the whole case. This is a recent statement. I read from a lecture delivered by Doctor Butler before the Royal Society of Arts in London on May 7 of this year, just last month, not even 30 days ago. Listen to this witness:

> Since American agriculture produces a large exportable surplus, to talk of aiding it by imposing a tariff tax upon imports of agricultural products does not rise even to the height of foolishness.

There is a Republican witness. He said:

Since American agriculture produces a large exportable surplus—

The wheat farmer produces an exportable surplus. The cotton farmer produces an exportable surplus. The barley and rye farmers produce exportable surpluses. Hogs, lard, and all pork products are on an export basis. All major farm producers of the United States have an exportable surplus. Doctor Butler said:

Since American agriculture produces a large exportable surplus, to talk of aiding it by imposing a tariff tax upon imports of agricultural products does not rise even to the height of foolishness.

Now listen to his further testimony:

If there is to be a policy of tariff taxation—

And there is; it is established in this country; I grant you that—

and if agriculture nevertheless is in distress—

Does anybody doubt the condition of agriculture? Has anybody denied that agriculture is in distress? Can anybody deny it?

there is but one way in which it can be effectively aided—

That is to say, agriculture—

and that is by a direct bounty from the Government Treasury.

Still quoting from Doctor Butler:

Hamilton recognized this fact and said so in 1791. The difficulty, however, with following such a policy as that is that it is just a little too frank and too open. It makes no attempt to conceal the fact that it is the general public, acting through the Public Treasury, which directly assists an unprofitable industry. That may or may not be a wise thing to do. But the chance of its being done wisely is quite impossible if it is done behind a screen of some sort which conceals from public view the essential simplicity of the whole operation.

Now, Mr. President, I want to call just one other witness; I presume he is a Democrat. He is of southern birth, and is probably a Democrat, though I do not say that he is a Democrat. I want to read from an address delivered by Mr. W. L. Clayton, of the Anderson-Clayton Cotton Co., the largest cotton factors in the world. There are men who go around and talk about the debenture plan being economically unsound; that sentiment is echoed and reechoed in every class newspaper, in all of the hide-bound partisan press of the country; and Mr. Hoover, the great engineer of economics and of human happiness, says it is unsound. I am about to quote Will Clayton, the biggest cotton operator in the world at this moment, who has made so much money out of cotton, Mr. President, that I do not quite understand the psychology of the newspapers and of the politicians who say that the scheme is so unsound. Alexander Hamilton says it is all right; Dr. Nicholas Murray Butler says it is all right, and that it is the only way; and here is a man, not a part of the riffraff, not a demagogue who is merely going over the country trying to stir up the farmer, but Will Clayton, a man who does not grow cotton, though he markets it, and who has made, according to reports, literally many millions in the handling of the cotton the farmer grows, honestly, I have no doubt, who says:

The most practicable plan by which Congress can grant the cotton farmer—

And the statement applies to every other farmer whose crop is on an export basis—

the relief to which he is entitled, is through an export bounty or debenture on cotton. An export bounty of 2 cents per pound on cotton would not equalize costs of production with foreign producers, nor would it entirely relieve the cotton farmer of the full measure of the unjust burdens which he suffers by the operation of our high tariff, but such a bounty would go far toward enabling him to compete for his share of the world's cotton trade, and to continue to produce from 40 to 50 per cent of the cotton consumed by the world outside of the United States.

I am willing to put Will Clayton's testimony, Doctor Butler's testimony, and Alexander Hamilton's testimony against that of any man who simply, parrot-like, echoes the statement that the debenture is unsound. Not only is it sound, but it is honest; it is square; it is a thing done in the open, where all men can see and understand. If the protective-tariff policy is at all sound, the bounty is equally sound and equally defensible. Here is the largest cotton operator on the globe who expressly approves the export debenture plan as the one available remedy promising anything like quick results for the American farmer.

Mr. Clayton does not necessarily say that he thinks that is the wisest policy, I grant you, neither does Doctor Butler, neither did Alexander Hamilton, but Doctor Butler sums up the whole case; and I want to read from that witness again. Here is the whole case in one sentence:

If there is to be a policy of tariff taxation and if agriculture nevertheless is in distress, there is but one way in which it can be effectively aided and that is by a direct bounty from the Government Treasury.

That is all there is to it; that is the case; and the so-called intellectuals in the United States who insinuate and charge that the debenture or bounty is uneconomical, that it is unsafe and unsound, are not capable of standing on their feet and disproving one word in that sentence uttered by Doctor Butler, because it is the truth. If under a high tariff system, which we propose to maintain, agriculture nevertheless is in distress, there is but one way out and that is to give agriculture the counterpart of the tariff, which can be done only through a bounty.

Mr. COUZENS. Mr. President, will the Senator yield?

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Michigan?

Mr. GEORGE. I yield.

Mr. COUZENS. I was wondering if the Senator in advocating a bounty or a debenture makes any distinction between a country that has reached its maximum production of agricultural commodities and a country that has not reached its maximum production.

Mr. GEORGE. Mr. President, I will say to the Senator that a distinction should be made; but, nevertheless, if under a tariff system which we propose to maintain and which we will maintain, I have no doubt, agriculture is depressed, there is but one way out, as Doctor Butler himself points out, though if we had reached, of course, the limit of production and it were desirable to stimulate production in the United States, there would of course be an added argument in behalf, particularly, of an export debenture plan.

Mr. President, there is one other thing I wish to say. The farmers of this country have been talking about the grain exchange and the cotton exchange for a long number of years. We have talked about it here; Senators have condemned the cotton exchange and the grain exchange. We have said that the operations of those exchanges resulted in the exploitation of the producers of cotton and of wheat, for instance. I have no doubt there is much truth in that contention; there may not be so much in it as some of us have at times thought and on occasion said, but there is yet much in it. There is a way to keep the exchanges from destroying the American farmer. No man who votes against the debenture ought to go to a constituency of wheat farmers and say, "I think the exchange is robbing you." No one ought to go to the cotton farmer and say, "Your trouble is that the exchange and the operations on the exchange are resulting in your undoing," and at the same time vote against the debenture. Why?

Under the debenture provision as we wrote it in the bill—and we did not write it in the bill for political purposes; we wrote it in the bill in good faith—the plan could be put in operation at the election of the Farm Board, on its initiative. I want to say now that, while I have condemned the farm marketing act as superficial, as it is—it is purely superficial—I have not condemned the members composing that board; they are doing the best they can; they are men of unusual qualifications for the task, and they are measuring up to it just as far as it is humanly possible for them to do so. But if we will give to the Farm Board the debenture provision which we wrote into the bill in the Senate and allow them to put it in operation when they elect, the grain exchange will never rob another grain grower, nor will the cotton exchange ever take another dollar out of the pockets of the men who make the cotton. Why? Because no man will sell short on the exchange; no man will speculate in the commodity when the board, charged with the protection of the farmer's market, can put the export debenture into operation at once and break all speculators in the country. It would destroy gambling on the exchanges; it would put into the hands of the farmer the one effective remedy which would enable him to protect himself against the two great evils that Senators have here denounced.

The representative from a grain section who goes back to his constituents and says "I voted against the export debenture plan" and yet in the next breath tells them that the grain exchange is robbing them ought to be defeated the very first opportunity that the grain farmers have to defeat him. So the representative from a cotton-growing section who goes back South and says to the cotton farmer, "I voted against the export debenture plan" and yet in the next breath says to him, "The cotton exchange is robbing you of your just earnings"

ought to be retired to private life. Give the Farm Board the power to put into operation the export debenture plan and gambling on the exchanges, grain and cotton, is gone, never to return. Yet the conferees struck that provision out of the bill; they denied agriculture the only possible hope of substantial benefit under this bill.

Do not misunderstand me, Mr. President. There are fruits and vegetables and minor crops that will receive the benefit possibly of tariff rates, but upon all the great staple crops not a penny of benefit will result to the farmer in the absence of the debenture. The debenture stands approved by the founder of the protective system and by the two eminent gentlemen I have named who, I think, certainly have the respect of the people of the country so far as their intellectual qualifications and strength of character are concerned.

I promised not to call any farmers as witnesses. I could call that oldest and most conservative of all farm organizations, the Grange. I do not call as witnesses any individual farmers; I do not summon them as witnesses because those who insist that the export debenture is economically unsound, of course, would not be expected to accept the testimony of a farmer, although he is the man immediately and directly concerned in any sort of farm legislation.

So, Mr. President, we come to a consideration of this conference report with every liberalizing amendment to the administrative and the special provisions written out; nothing has been changed in the existing law except the rates which have been made higher in the case of most industrial commodities, or in the case of a great many of them, and also in the case of agricultural products; but the rates on agricultural commodities are meaningless in the case of commodities produced in this country in excess of our domestic requirements.

Mr. President, I had not the slightest idea that I should discuss this conference report. I do not care to discuss the rates. The rates on industry do not, in my judgment, justify any further discussion. The industrial rates, the duties placed upon various commodities and products throughout this bill, do not justify any further discussion. I had hoped, when this tariff bill was laid before this body, that we would do something for the American farmer, and that we would make the Tariff Commission a truly judicial or at least a quasi judicial body, and remove the tariff from the arena of politics as far as possible. In these major objectives the tariff bill, as it is written to-day, is an absolute failure, because it is a repudiation, under the leadership and control of the conference committee, of every amendment made in the Senate for the purpose of making that commission a nonpartisan, a judicial or quasi judicial body, and of removing from the arena of politics and of political influence the great question of tariff making.

I am compelled to say, in conclusion, what I have already said—that those who made this conference report, and the administration, if he approves it, did not seek to take the tariff out of politics, did not desire to take the tariff out of politics, but that they deliberately retained the tariff in politics. If that is true, the basis upon which that statement rests is that those in this country who want special privilege in any form are at least united upon the contributions to political campaigns made by those who seek and by those who receive special favors through the tariff.

Mr. McNARY. Mr. President, I desire to submit a proposed unanimous-consent agreement. Before doing so I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Allen	Gillett	La Follette	Shortridge
Ashurst	Glass	McCulloch	Simmons
Baird	Glenn	McKellar	Smoot
Barkley	Goff	McMaster	Steck
Bingham	Goldsborough	McNary	Steiwer
Blaine	Gould	Metcalf	Stephens
Blease	Greene	Moses	Sullivan
Borah	Hale	Norbeck	Swanson
Bratton	Harris	Norris	Thomas, Idaho
Brock	Harrison	Nye	Thomas, Okla.
Broussard	Hawes	Oddie	Townsend
Capper	Hayden	Overman	Trammell
Connally	Hebert	Patterson	Tydings
Copeland	Heflin	Phipps	Vandenberg
Couzens	Howell	Pine	Wagner
Cutting	Johnson	Ransdell	Walsh, Mont.
Deneen	Jones	Robinson, Ind.	Waterman
Fess	Kean	Robsion, Ky.	Watson
Frazier	Kendrick	Sheppard	Wheeler
George	Keyes	Shipstead	

The PRESIDENT pro tempore. Seventy-nine Senators having answered to their names, a quorum is present.

Mr. McNARY. I submit the proposed unanimous-consent agreement which I send to the desk and ask to have read.

The PRESIDENT pro tempore. The proposed agreement will be read.

The Chief Clerk read as follows:

It is agreed by unanimous consent that at 4 o'clock p. m. on Friday, June 6, the Senate will proceed to vote upon the question of agreeing to the pending conference report on the tariff bill.

The PRESIDENT pro tempore. Is there objection?

Mr. SIMMONS. Mr. President, I can not agree to that, I wish to say to the Senator from Oregon.

Mr. McNARY. I did not hear the Senator.

Mr. SIMMONS. I said I could not agree to that. But I wish to ask the Senator from Utah whether we can not enter into an agreement to vote upon both these reports at one time?

Mr. SMOOT. I do not see how we can. Will not a point of order be made if we undertake to do that?

Mr. SIMMONS. I assume a point of order will be made. But I have this suggestion to make to the Senator: I can see no obstacle in the way of temporarily laying aside the pending report, which is the last report from the committee, and taking up the first report, in order that we may get a ruling upon the points of order. That ruling having been obtained, probably the way will be open for an arrangement of the character I have just indicated.

Mr. SMOOT. I can not see anything to be gained by that course. There may be something to be gained, but really I can not see that any time would be saved by it, nor can I see how any advantage would be gained by following such a course. The Senator knows just as well as I do that this whole situation came about on account of the fact that in the beginning the rules of the two Houses were changed, and the conference report first went to the House instead of to the Senate. If it had been otherwise, this situation never would have been brought about. I can not see that any time would be saved or that anything would be gained by laying the pending report aside and taking up the other one. If the Senator can show me where any advantage would be gained, I will be glad to consider it, but I can not see it.

Mr. SIMMONS. The advantage is this: If we vote upon this last report, and then have to take a separate vote upon the first report, which embraces all the items in disagreement in the bill except the eight, it will necessarily call for another debate, which will probably be quite extended. If we can vote upon both at the same time we will avoid that delay.

Mr. SMOOT. There are eight items in the first report which have not finally been agreed upon by the House, and that is all.

Mr. SIMMONS. Every other item in disagreement has been agreed upon.

Mr. SMOOT. Yes; with the exception of the eight.

Mr. SIMMONS. They are subject to points of order, however.

Mr. SMOOT. Of course, the Senator from Kentucky intends to make those points of order.

Mr. SIMMONS. Yes.

Mr. SMOOT. What advantage would we gain by laying the pending report aside and taking up the other report, and then having a point of order made against it, so that it would have to go back to the committee of conference?

Mr. SIMMONS. Let it go back to the committee, and hold in abeyance the vote on this one until that is done.

Mr. SMOOT. It seems to me that would mean delay, rather than a saving of time.

Mr. SIMMONS. I do not think so. It will avoid discussion. It may result in delay for perhaps a few hours or a day in the conference committee.

Mr. SMOOT. I would prefer, before I could consent to that, to ask what effect it would have on Members of the House.

Mr. SIMMONS. Then, Mr. President, as the Senator wants to consult the conferees on the part of the House, I suggest that we act on this unanimous-consent request now presented by the Senator from Oregon, and I wish to object to it.

Mr. McNARY. Will not the Senator from North Carolina withhold his objection?

The PRESIDENT pro tempore. Is there objection to the unanimous-consent agreement proposed by the Senator from Oregon?

Mr. SIMMONS. I object.

The PRESIDENT pro tempore. Objection is made.

Mr. HARRISON. Mr. President, will the Senator yield to me?

Mr. SIMMONS. Mr. President, if I may have the attention of the Senate——

The PRESIDENT pro tempore. The Senator from North Carolina has the floor.

Mr. SIMMONS. I am making the objection, in my judgment, in the interest of expediting this legislation. I am making it for the purpose of seeing if we can not bring about an arrangement by which we can vote upon both the first and the second reports at the same time.

Mr. SMOOT and Mr. BARKLEY addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from North Carolina yield; and if so, to whom?

Mr. SMOOT. I want to make a statement.

Mr. SIMMONS. I yield to the Senator from Utah first.

Mr. SMOOT. Some hour and a half ago I went over to the office of Mr. HAWLEY, chairman of the Ways and Means Committee of the House, and laid this whole subject before him. I told the chairman of the Ways and Means Committee just what suggestions had been made to me as chairman of the Finance Committee in relation to the first conference report, that there seemed to be a sentiment in the Senate that Senators would like to act upon that report first, laying the pending report temporarily aside, and that I would like to have him let me know just as soon as possible what the conclusion would be after a consideration of the matter by members of the Ways and Means Committee of the House. Mr. HAWLEY has just entered the Chamber, and he advises me that they see no reason why we can not temporarily lay the pending report aside and take up the first report. There is no advantage to be gained, but if there is anyone in the Senate who thinks there is, to the request made by the Senator from North Carolina, as far as I am personally concerned, after getting the assurance from the chairman of the Ways and Means Committee of the House, I have no objection.

Mr. SIMMONS. That is very satisfactory.

Mr. FESS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from Ohio?

Mr. SIMMONS. I yield.

Mr. FESS. I want to submit a parliamentary inquiry as to the status of the two reports. Has the House yet acted on the report, or either part of the report?

Mr. WATSON. Both.

Mr. BARKLEY. Oh, no; only on one.

Mr. FESS. One part?

Mr. SMOOT. Report No. 1, which comes back, and is to be reported to the Senate. The request of the Senator from North Carolina now is that we lay the pending report temporarily aside and act upon the first report. There are eight items in that report, and I suppose a point of order will be made as soon as the conference report is submitted, which I shall ask to have done just as soon as the pending report is temporarily laid aside.

Mr. HARRISON and Mr. WATSON addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from North Carolina yield; and if so, to whom?

Mr. SIMMONS. I yield to the Senator from Mississippi.

Mr. HARRISON. I wanted to ask the Senator from Utah a question. If the first report, which is now on the table, is laid before the Senate, to which points of order will doubtless be made, if they should be sustained and the report should go back to conference, then the other report will be laid before the Senate and discussion will proceed. Is it the idea of the Senator from Utah, when this first report is sent back to conference, that only those items to which points of order are to be made are to be considered in the conference, or is the Senator to bring up new matters in the conference and change certain things?

Mr. SMOOT. Just the items in disagreement.

Mr. HARRISON. I want to ask another question. If, in a day or two, some agreement should be entered into as to a time for voting on either one of these reports, or both of them, voting on them together, will the Republican side of the Chamber arrange with this side of the Chamber to take care of some Senators who might not be present, who are necessarily absent and can not be here at that time; in other words, arrange pairs to take care of any Senator who may be absent, so that the sense of the Senate may be expressed through votes or through pairs?

Mr. SMOOT. I could not make any statement as to that.

Mr. HARRISON. I think the Senator could. The Senator is a cog in the machine which runs the other side. May I ask the assistant leader over there if he can arrange pairs for those who may have to be absent?

Mr. McNARY. In the presence of the distinguished leader on this side, I defer to him.

Mr. HARRISON. Then I ask the distinguished leader over there.

Mr. WATSON. I am not ready to answer that question.

Mr. SIMMONS. Mr. President, I think the settlement of that question can be postponed until after we make the proposed arrangement.

Mr. SMOOT. Do I understand the Senator from North Carolina to ask in his unanimous-consent request that we vote upon the two reports at the same time?

Mr. SIMMONS. Yes.

Mr. BARKLEY. Mr. President, will the Senator yield to me?

Mr. SIMMONS. Before I yield to the Senator from Kentucky, I will say that my proposal was that we lay aside temporarily the pending report; that is, the last report, now pending in the Senate, and that we take up the first report, hear the points of order, let them be decided one way or the other, and if they are decided by the Chair favorably to the contention of the Senator making the point of order, then we would hold the vote upon the second report in abeyance, and vote upon both at the same time.

Mr. SMOOT. One other thing to which I want to call attention is that all points of order must be made before the report goes back.

Mr. SIMMONS. They will be made. Mr. President, I would like to make a parliamentary inquiry of the Chair.

The PRESIDENT pro tempore. The Senator from North Carolina will state it.

Mr. SIMMONS. I ask whether we can present all the points of order and let them be ruled on at the same time, or would they have to be made seriatim, and if the Chair decides one of them agreeably to the contention of the one making the point of order, would it send the report back, and when it comes back, would the Chair hear the next point of order; or can we consolidate them and have a ruling upon all the points of order at the same time?

The PRESIDENT pro tempore. If the present occupant of the chair should chance to be presiding at the time the points of order are made he would ask that they all be submitted at once, and the rulings would then be made upon them seriatim, and the Chair understands from the Vice President that he also has made the same statement.

Mr. SIMMONS. That is satisfactory.

Mr. SMOOT. Not only that, but I want it also understood that they will all be made now, and that hereafter no point of order will be made against either one of the reports.

The PRESIDENT pro tempore. Let the Chair propound a parliamentary inquiry. Just what does the Senator from Utah mean by that?

Mr. SMOOT. I mean that there will have to come some time when points of order can not be made.

Mr. NORRIS. Well, Mr. President——

The PRESIDENT pro tempore. The present occupant of the chair understands that there is no time at which a point of order may not be made.

Mr. SMOOT. I understand that, too; but as long as we are agreeing upon the matter now, I wanted to have that understood.

Mr. SIMMONS. Mr. President, I wish to say to the chairman of the committee that, speaking for this side, we will do everything we can to have all the points of order presented at the same time.

Mr. NORRIS. Mr. President, will the Senator from North Carolina yield to me for a moment?

Mr. SIMMONS. I yield to the Senator from Nebraska.

Mr. NORRIS. The Chair has stated the case in a nutshell. All points of order to be made against this report can be made at once and decided. Then, if they are sustained, or if any of them be sustained, the report will go back to conference. To have a unanimous-consent agreement that when that report comes back there shall be no point of order made against it would be giving it all away.

Mr. SMOOT. No other points of order than on the items that were sent back to conference.

Mr. NORRIS. They can not be made until the report comes back. If the position of the Senator from Utah were sound, the conferees could bring in a report declaring war against Russia, and it would not be subject to a point of order when it came in. We shall have to hear what the report contains before we can pass on that.

The PRESIDENT pro tempore. The President pro tempore is clearly of the opinion that there never is a time when a point of order can not be made against any proposal before the Senate.

Mr. SMOOT. I understood that thoroughly.

Mr. WATSON. Mr. President, will the Senator from North Carolina yield?

Mr. SIMMONS. I yield.

Mr. WATSON. I do not think the first report should be brought up—the one being brought up second in order—for the

purpose of having points of order decided with a view to sending it back to conference with the understanding in the Senate that the two reports are to come back as one, to be voted on as one, because under the present parliamentary situation we have no authority whatever to amalgamate the two reports.

If the second report be sent back by vote and the first report be sent back, either by vote or on a point of order, the conference committee then would have authority to amalgamate the two reports and bring them in as one, to be voted on. Otherwise we would not have authority, because the one is in the Senate and the other is in the conference committee. Merely to send back the first on a point of order will not enable us to amalgamate the two reports and have one vote on one report, and that is what I understand the Senator from North Carolina to desire.

Mr. SIMMONS. What I desire is that we lay aside for the present the second report and take up the first report and have the points of order presented. Those points of order shall then be decided. If the points of order are sustained, the bill then goes back to conference. My suggestion is that we hold in abeyance debate on the first report until the conference report comes back. Then we will have both reports before the Senate without any strings to them and we can consolidate them by unanimous consent.

Mr. SMOOT. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from Utah?

Mr. SIMMONS. Certainly.

Mr. SMOOT. It seems to me the only way to do is to have the understanding that if we vote upon the second report first or the first report first, there shall be no intervening discussion on the reports between the action on the first and second reports.

Mr. SIMMONS. That is what I want. That is what I have suggested.

Mr. HARRISON. Mr. President, will the Senator yield?

The PRESIDENT pro tempore. Does the Senator from North Carolina yield to the Senator from Mississippi?

Mr. SIMMONS. I yield.

Mr. HARRISON. I think the Senator can get that kind of an agreement, that there shall be no intervening discussion between the two reports; but the vote ought to come first naturally upon the particular proposition that is pending.

Mr. SMOOT. I have no objection to that arrangement.

Mr. SWANSON. It seems to me a unanimous-consent agreement could be made very easily that instead of voting on the reports separately we should vote upon the two reports as one.

Mr. SIMMONS. I do not think we can do that—not when a point of order is made.

Mr. SWANSON. I mean when they come back from conference.

Mr. SMOOT. There are two separate reports from the conference. We can vote upon the first one first if the Senate decides that way. The only question I had in mind was that whenever we begin to vote, whichever report we vote upon first, we shall then vote upon the other without any further discussion.

Mr. SIMMONS. That is my point and that is what I have suggested.

Mr. BRATTON. Why not vote on both at one time, so that the same vote would send them both back or adopt them both?

Mr. SWANSON. This is the first time I have known of two reports on a complete agreement. It practically amounts to asking for a separate vote on things contained in the agreement. It seems to me some way ought to be provided not to have a vote in detail on the administrative feature and a vote then on another feature which may be brought up. It seems to me we could very easily agree by unanimous consent that when the reports come back they shall be laid before the Senate and the question will then be, Shall the Senate approve the two reports? Let us have one vote whether the bill shall pass or not pass upon the combined reports.

Mr. SIMMONS. I am indifferent as to that. When the matter is referred to the conference committee under the ruling of the Chair and that report comes back to the Senate, I will be willing to vote upon both of them at the same time or to separate them with the understanding that as soon as a vote is had upon the one, a vote shall be had upon the other.

Mr. SMOOT. That is perfectly satisfactory to me.

Mr. FESS. Mr. President, a parliamentary inquiry.

The PRESIDENT pro tempore. The Senator from Ohio will state it.

Mr. FESS. If the agreement should be assented to so that a point of order might be made upon the first report, and the point of order is sustained, that will send that report back to conference. Will it require an order of the Senate to do it or does it automatically go back?

The PRESIDENT pro tempore. We will have to start the proceedings de novo by asking for a further conference.

Mr. FESS. A further parliamentary inquiry. If the unanimous-consent proposal is agreed to, that would suspend action on the particular report now before us until the other one comes back. Then we will have the two reports here together. Can they both be considered as one without unanimous consent or could any one Senator prevent their consideration together?

The PRESIDENT pro tempore. The Chair would hold there were two separate conferences, although the conferences were made up of the same persons on the part of each House, and it would require unanimous consent to consolidate the reports.

Mr. SIMMONS. When those two reports are before the Senate and we are ready for a vote, can we not have a unanimous-consent agreement to vote upon them as consolidated?

The PRESIDENT pro tempore. Yes; the Chair has just so held, unless, of course, some one objected.

Mr. SIMMONS. That is the only unanimous-consent matter in which I am interested.

Mr. WATSON. I think the request of the Senator from Utah ought to be presented now.

Mr. SMOOT. Mr. President, I ask unanimous consent that the pending conference report on the tariff bill be temporarily laid aside and that the Senate proceed to the consideration of the other conference report on the same bill.

The PRESIDENT pro tempore. The Senator from Utah asks unanimous consent to lay aside temporarily the further consideration of the second report on the tariff bill from the committee of conference and that the Senate proceed to the consideration of the first report. Is there objection?

Mr. CONNALLY. Mr. President, I understand the Senator from Arizona [Mr. HAYDEN] has a point of order which he intends to make against the second report.

Mr. SMOOT. I do not know whether he is going to make it. I know he was talking of making it.

Mr. CONNALLY. It will be made by the Senator from Arizona or by some one else. I wondered if the Senator from Utah would want to have that acted upon before we lay aside the report now before us?

Mr. GLASS. The point of order can be made later.

Mr. McKELLAR. It can be made when the other report is laid before us.

Mr. SMOOT. I think the amendment to which the Senator has reference is in the second report.

Mr. CONNALLY. That is why I made the suggestion to the Senator. He wants to lay aside the second report. Does he not want to have the point of order decided before he does that?

Mr. WATSON. Does the Senator from Texas know what the point of order is?

Mr. CONNALLY. Yes; I know what it is.

The PRESIDENT pro tempore. The Chair understands the point of order to which the Senator from Texas refers is not in the report which is to be laid aside but is in the other one.

Mr. SIMMONS. It is in the first report.

Mr. SMOOT. I want to ask the Senator from Texas if he desires to make the point of order before I ask to lay aside temporarily the conference report?

The VICE PRESIDENT. The amendment is in the first report and not in the second report.

Mr. SIMMONS. The Senator from Texas understands it now.

Mr. SMOOT. I ask that the Chair submit my unanimous-consent request.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah? The Chair hears none, and it is so ordered. The Chair lays before the Senate the following conference report.

The CHIEF CLERK. The first conference report on House bill 2667, the tariff bill.

(For report see House proceedings of Monday, April 28, CONGRESSIONAL RECORD, pp. 7833–7842.)

The VICE PRESIDENT. The question is on agreeing to the first conference report.

Mr. BARKLEY. Mr. President, I had been informed by the Senator from Utah [Mr. SMOOT] that he would not agree to this procedure and therefore I find that part of my memoranda are in my office and not on my desk here, but I may be able to get along without them. If not, I should like to have an opportunity to send for them.

Mr. President, I make the point of order first against the report on the ground that the conferees have exceeded their authority in rewriting paragraph 367 of the tariff bill.

Mr. MOSES. Mr. President, may I ask the number of the amendment?

Mr. BARKLEY. It is amendment No. 327 in paragraph 367, relating to watches and watch movements.

Mr. President, I wish to say in the outset that I do not make the point of order in any captious spirit or for the purpose of being critical. I make it because in my judgment, after giving careful consideration to the language and the effect of the House text and the Senate amendment and the conference report, the conferees have exceeded their authority not only in a technical sense but in that they have vastly changed the effect of the section in the levy of the tariff tax provided upon watches and watch movements.

Under the present law and under the rulings of the Treasury Department all watches, whether worn on the person or not, are admitted into the United States at a rate of duty fixed in paragraph 367 for watches and watch movements of all characters.

In the House text the basis of the tariff on watches was rearranged by eliminating the question necessarily of jewels or the primary question of the number of jewels, and fixing the tariff based upon the diameter of the watch. There is a very minute and technical method by which the tariff tax is to be arrived at under the House text. But in order that the practice of the Treasury Department, based upon the present law, might be made certain and written into the law, the language of the House text provided for watches "whether or not worn on the person," which, of course, means that all watches, whether worn on the person or carried in a hand bag, or in the cowl of an automobile, or on a bicycle, or in an airship, or inclosed in a neat leather case and laid on a dresser or a table in a bedroom, are to bear the duty carried in that section on watches.

When the bill reached the Senate containing the language of the House, "whether or not worn on the person," what transpired in the Senate was to strike out the language of the House and reenact the language of the present law, under which all manner of watches are now being brought into the United States under a watch schedule, because under the language of the statute which we incorporated in the Senate amendment there is no distinction and no difference between watches worn on the person and watches carried in some other way.

The conference committee have eliminated the language "whether or not worn on the person" and substituted for it the words "if worn on the person," so that while the House language includes in paragraph 366 all watches, whether worn on the person or not, still the Senate amendment includes all watches, whether worn on the person or not, while the conferees have eliminated in the watch schedule all watches not worn on the person and they have automatically been transferred to the watch schedule under an entirely different rate and under a very much higher rate than that carried in paragraph 367 applicable to watches.

The VICE PRESIDENT. Does the Senator from Kentucky mean they are transferred from paragraph 367 to paragraph 368?

Mr. BARKLEY. They are transferred from paragraph 367 to paragraph 368.

The VICE PRESIDENT. The Chair thought that was what the Senator meant.

Mr. BARKLEY. That is what I intended to say.

Mr. President, here [exhibiting] is a watch that is wound by a stem, just as is any other watch. It is not a watch which is worn on the person. It is a watch that may be inclosed in a leather case and left on the table or laid on the seat of an automobile, or it may be inserted in the cowl of an automobile, or it may be attached to a bicycle. That watch now comes in under the watch schedule, paying the watch tariff; it would come in under the House bill as a watch and it would come in under the Senate bill as a watch, but the language of the conference committee report automatically transfers this watch from the watch schedule, because it is not worn on the person, and puts it into the clock schedule at an entirely different and a very much higher rate.

Here, Mr. President [exhibiting], is another watch. Anybody on examining it can see that it is a watch; but it happens to be inclosed in a little leather case. It is wound by a stem, just like any other watch. It is not, however, worn on the person. It may be carried in any way; it may be left on a table; it may be inserted in any object; but it is not a watch intended to be or designed to be carried on the person; yet by the elimination of certain language by the conference committee this watch has been transferred to paragraph 368, which is the clock schedule. I will point out, if the Chair will permit me, in a moment the difference in the rates between paragraph 367 and paragraph 368.

Here [exhibiting] is another watch, which is wound likewise by a stem. It is designed to be inserted in the cowl of an automobile. We are all familiar with the watches that are placed in automobiles. They are made exactly like the ordinary watch except as to size and as to the attachments by which they are inserted in certain vehicles—automobiles, airships, and bicycles. However, it is a watch, Mr. President, and it now comes under the watch schedule embraced in paragraph 367; it is a watch that under the House bill would come in under that schedule as a watch, whether worn on the person or not. In this case it would not be worn on the person. Under the amendment which was adopted by the Senate, which was simply the language of the present law, it would likewise come under the watch schedule; but by the elimination of this language on the part of the conferees this watch is transferred to the clock schedule under paragraph 368. I need not multiply these illustrations, Mr. President.

Now, let us see what is the difference in the rates.

Mr. SMOOT. Mr. President, before the Senator leaves that point, I should like to call attention to the fact that, if I understood correctly what the Senator said, I am quite sure he is mistaken in his reference to the wording of the House provision. I call his attention to page 96, beginning with line 16, where the House bill reads:

> In less than 1.77 inches wide and if having any type of stem, rim, or self-winding mechanism, and watch movements designed or intended to be worn or carried on or about the person.

The Senator made the statement that the words were used "whether or not designed or intended to be worn about the person." Those words are used in the first part of the paragraph, but not in the second part to which the Senator has made the objection. The second provision does not use the words "whether or not"; it specifically states:

> Watch movements designed or intended to be worn on or about the person.

So the argument the Senator made as to the first part of paragraph 367 certainly can not apply to the second part of which he has just spoken.

Mr. BARKLEY. In order to make that perfectly clear, I will read the language of paragraph 367, the first portion of which applies to all that follows.

Mr. SMOOT. No; it does not; the Senator is mistaken in that respect.

The VICE PRESIDENT. The Chair is anxious to hear what is said on both sides, and hopes the Senate will be in order and that Senators having the floor will speak sufficiently loud so that the Chair may hear them.

Mr. BARKLEY. Mr. President, the language of the House bill as stricken out by the Senate reads as follows:

> PAR. 367. (a) Time-keeping, time-measuring, or time-indicating mechanisms, devices, and instruments, whether or not designed to be worn or carried on or about the person, if less than 1.77 inches wide and if having any type of stem, rim, or self-winding mechanism, and watch movements designed or intended to be worn or carried on or about the person.

In other words, paragraph 367 was designed to cover all time-keeping and time-measuring devices, whether or not carried on or about the person—and, of course, nothing but a watch would be carried on the person—and watch movements of less than 1.77 inches if designed to be worn or carried on or about the person.

That language refers to all time-keeping mechanisms, devices, or instruments, whether they are intended to be worn on the person or not, and the limitation to which the Senator from Utah refers applies only to watch movements that are less than 1.77 inches in width.

Mr. SMOOT. No; the Senator is mistaken there; this paragraph does not so provide; there is no limitation as to size.

I will take the time later to answer the Senator's contention as to the first portion of the paragraph, but I do not want to interrupt the Senator now. His contention as to the second portion is so apparently wrong, however, I thought the Senator had misspoken himself. I did not think for a moment that he really thought that there was anything in the second part of this paragraph to which objection could be raised. There is a question as to the first provision, and I will go into that in detail as soon as the Senator is through; but there is not as to the second provision.

Mr. BARKLEY. I have no objection to yielding to the Senator; but probably it would be in the interest of clarity and of brevity also if we completed our own statements in our own time.

I was about to illustrate the difference between the rates adopted by the House and Senate bill and those agreed to in the conference report. Everybody understands, including the conferees, that the watch schedule is very technical and very much involved. It is more or less simple in the present law; there are no great complications in it; but under the language of the House bill and under the language of the conference report the watch schedule is involved in infinite intricacies.

Taking first an 8-jewel watch, because there is some difference between watches with 8 jewels and those with 7 jewels or less, under the House bill an 8-jewel watch, 1½ inches wide or more, would bear a duty of $1.60; that is, it would bear a $1.25 base rate, 20 cents for the jewels and 15 cents for the dial, making $1.60. Under the Senate bill the same watch would bear a rate of $1.25, while under the conference report, which throws the same watch under the clock schedule, if it were worth $11 the tariff would be $4.50 plus 65 per cent ad valorem, making $2.93 more, and the jewels in the watch would bear in addition a $2 tariff, making a total of $9.43 under the conference report as against $1.60 under the House bill and $1.25 under the Senate bill.

If it happens to be a 17-jewel watch—I will take a 17-jewel watch first because all above 17 jewels bear a straight rate of $3.60 under the House bill, $10.75 under the Senate bill, and $11.93 under the conference report. Taking a 17-jewel watch, on such a watch the base rate under the House bill is $1.25; the duty on the jewels is $2; the duty on the dial is 15 cents; making a total of $3.40 tariff on a 17-jewel watch. Under the Senate bill, which is the same as the present law, the rate on that watch is $2.75, but under the conference-report rate, if the watch is worth $11, it would pay a straight tariff duty of $4.50 plus 65 per cent, or $2.93, and $4.25 for the jewels, making a total of $11.68. That identical watch, which now comes in at the watch-schedule rate, which would come in under the House bill at the watch-schedule rate, under the conference report would come in with three rates, a base rate of $4.50, if it is worth $11, plus 65 per cent and 25 cents apiece for the jewels that are included in the watch movement, making a total of $11.68.

Mr. SMOOT. I ask the Senator if he is referring to a watch movement?

Mr. BARKLEY. Yes.

Mr. SMOOT. Then it will not come in under that rate at all. It will come in under the watch schedule if it is a watch movement, as the Senator says it is.

Mr. BARKLEY. It certainly is a watch movement, but it is not a watch movement such as is intended to be worn on or about the person.

Mr. SMOOT. I will answer the Senator later.

Mr. BARKLEY. It must be borne in mind that under the Senate provision all watch movements bear the rate which is set out in the language of the provision, which is simply a reenactment of the present law.

Not only, Mr. President, have the conferees exceeded their authority, in my judgment, in the change of the language of the House and Senate provisions as to whether the watch is worn on or about the person but in dealing with the question of jewels the conference committee likewise exceeded their authority. Under the House bill jewels would be brought in at a flat rate of 10 per cent ad valorem; under the Senate bill jewels would be brought in at a flat rate of 10 per cent ad valorem. Under the House bill and under the Senate bill jewels both set and unset come in at 10 per cent ad valorem. A set jewel, Mr. President, is simply a jewel that has been inclosed in a little metallic cap; I have some here; they are so small that it is impossible for me to exhibit them from this distance; but it is easy to understand what a set jewel is. A jewel, whether set or unset, is suitable to be used in a watch movement; and the operation of setting a jewel means to place it in a little metallic cap in which it is inserted in the watch movement. Some jewels are brought over set; some of them are brought over unset and are set after they get into this country.

Under the House bill and under the Senate bill, as I have said, both set and unset jewels come in at 10 per cent ad valorem; but the conferees have changed the language by inserting the word "unset" in subsection (d) of paragraph 367:

> Jewels, unset, suitable for use in any movement, mechanism, device, or instrument, dutiable under this paragraph or paragraph 368, or in any meter or compass, 10 per cent ad valorem.

So by the insertion of the word "unset" in that language, and by the subsequent language of the conference report, set jewels, which under the House bill and the Senate bill bear a 10 per cent ad valorem rate, are transferred into the clock schedule, where they bear a straight duty of 20 cents apiece.

I take it for granted that when in the House bill all jewels, set or unset, are dutiable at 10 per cent, and in the Senate bill all jewels, set or unset, are dutiable at 10 per cent, and it is changed so that unset jewels still bear a 10 per cent rate and set jewels bear a rate of 20 cents apiece, no man can contend that that is not exceeding the authority of the conferees in the matter of fixing a rate on jewels.

The effect of that is to levy a duty of approximately 2,000 per cent on these set jewels. The average jewel is not worth much. The average jewel in a watch is worth about 1 cent, and of course a 10 per cent ad valorem duty on that is almost infinitesimal; but when that is increased from 10 per cent ad valorem to 20 cents apiece it increases the duty to about 2,000 per cent, which I contend is a flagrant violation of the rules governing conferees in traveling over the territory occupied by the difference between the House and the Senate.

I am satisfied that the Vice President understands the point I have made on the watch and clock schedules, and it is not necessary further to elaborate that. I am somewhat handicapped because, not knowing that this matter would come up this afternoon, I have left at my office the memorandum which gives the numbers of these amendments.

Another point to which I wish to call attention—I may not take up these matters in the order in which they appear in the bill—is the tariff on cherries in the agricultural schedule.

Mr. SMOOT. Mr. President, do I understand that those are all the points of order on the watch schedule that the Senator intends to make?

Mr. BARKLEY. I have made two points of order on the watch schedule. I do not care now to discuss any further those two points of order.

Mr. SMOOT. Shall I answer the Senator now, or shall I wait?

Mr. BARKLEY. No; I want to complete what I have to say about this.

Mr. McNARY. Mr. President, will the Senator yield?

Mr. BARKLEY. Yes.

Mr. McNARY. Is it the purpose of the Senator to make various points of order and argue them, and then have the arguments presented by the other side, and then submit them all to the Vice President before a ruling is had?

Mr. BARKLEY. I am subject to the convenience or desire of the Vice President. It had been my thought to present all these points of order at once.

The VICE PRESIDENT. The present occupant of the chair would like to have them all presented at once, so that he can take a little time this evening to look over them.

Mr. SMOOT. I think that is best.

Mr. McNARY. I do not know what the convenience of the chairman of the committee is. I desire to address myself briefly to the point of order now being made by the Senator from Kentucky; but I am not prepared to do it this evening, because I did not anticipate that the matter was coming up, and I have not my papers here.

Mr. BARKLEY. Of course, I should have to reserve the right, which I suppose I would have if the Vice President were willing, to reply to any argument made on the other side.

The VICE PRESIDENT. The Senator would have that right.

Mr. BARKLEY. I assume that I would. If the Senator from Oregon desires to proceed now to argue the point of order on watch jewels, I am perfectly willing to waive the other points until that is argued out; but it had been my purpose to call attention to all of them at once.

Mr. SMOOT. Perhaps that would be just as well, Mr. President. I can either answer the Senator on the watch schedule right now, so that the Chair can have all the arguments before him at once, or I can answer each of the points of order when the Senator gets through; but it seems to me, now that the Senator is through with the watch schedule, that it would be a good thing for me at this time to answer the points which the Senator has raised.

Mr. BARKLEY. That is entirely satisfactory to me, if the Vice President is willing.

The VICE PRESIDENT. Does the Senator from Kentucky yield the floor?

Mr. BARKLEY. I yield it for the present.

Mr. SMOOT. Mr. President, two points of order are made against paragraphs 367 and 368, the watch and clock schedules of the tariff bill, by the Senator from Kentucky [Mr. BARKLEY]. I will first take up point of order No. 1.

The Senator contends that the conference substituted the words—now, Senators, mark the words—

> All the foregoing designed to be, or such as ordinarily are worn or carried on or about the person—

Those words are found in paragraph 367 (a). Those are the words substituted for these words:

> Whether or not designed to be worn or carried on or about the person.

It is claimed by the Senator that the changes made would transfer timekeeping mechanisms not designed to be worn on the person from paragraph 367 to paragraph 368, with resultant rates higher than those applying in either the House bill or the Senate bill. That is the contention of the Senator.

Theoretically, these changes in language transfer mechanisms which are less than 1.77 inches wide, and which are neither watch nor clock movements, and which are not designed to be worn on the person, to paragraph 368. That is the contention. Actually, there are no commercial mechanisms "less than 1.77 inches wide" except watch and clock movements, and no transfer of commercial articles results from the change in language, for the following reasons:

First. All commercial watch movements are specifically provided for by name in paragraph 367 of the House bill, the Senate bill, and the conference report, and are not removed from the operation of the paragraph by any changes in descriptive language, such as "whether or not designed," and so forth.

Second. All commercial clock movements are specifically provided for by name in paragraph 368 of the House bill, the Senate bill, and the conference report—in all of them. Those provisions are more specific than the descriptive language in paragraph 367, such as "timekeeping mechanisms," and so forth, "not designed to be worn on the person," and so forth. Hence, no movements or mechanisms have been removed from the operation of paragraph 368 at any time.

The test of validity of the rates in the conference report is comparison of rates in the House bill and the Senate bill on commercial articles—mark the words "commercial articles"—with the rates on the same articles in the conference report. There having been no transfers of such articles from paragraph 367 to 368, or vice versa, by reason of changes in language made by the conference report, rates calculated by considering an article first as a watch and applying the House rates on watches, and then considering it a clock and applying the conference rates on clocks, are incorrect, as such procedure is based on an erroneous premise.

The VICE PRESIDENT. Let the Chair ask the Senator from Utah a question. Does the Senator contend that under this conference report the watches displayed by the Senator from Kentucky are not transferred from the watch schedule to the clock schedule?

Mr. SMOOT. They are not, Mr. President. All I can say is this: We have had our watch expert from the Tariff Commission here. We have shown him every conceivable kind of watch that the Senator can possibly describe or has described in his statement here, and the expert says that it is absolutely impossible to do it under the law or under the amendments that are suggested here.

Mr. BARKLEY. Mr. President, will the Senator yield there?

Mr. SMOOT. Yes.

Mr. BARKLEY. I should like to call the Senator's attention to the fact that in the House bill this is the language:

> Time-keeping, time-measuring, or time-indicating mechanisms, devices, and instruments, whether or not designed to be worn or carried on or about the person.

Which includes everything. In the Senate language——

Mr. SMOOT. But, Mr. President, there is just where the Senator is mistaken. That language does not include watches, because they are more specifically provided for. In any tariff bill that was ever written the rule is, wherever an article is specifically provided for, that it takes the specific rate. There is no mention of watches here; but later on watches are specifically provided for, and therefore they take the rate specifically provided for them.

Mr. BARKLEY. Why in the hearings before the Senate committee was it insisted that this language ought to be put in here, "whether or not worn on the person," in order to comply with the present law and practice of the Senate; and why was this language stricken out by the conference committee when it was carried in both House and Senate bills?

Mr. SMOOT. I do not know of any such law, Mr. President.

Mr. BARKLEY. It was done deliberately, and it was done for a purpose.

Mr. SMOOT. As far as the conference is concerned, I am not expressing the opinion of anybody who appeared before the committee. I am expressing the opinion of the expert on the wording as reported to the Senate; and everything that is in the conference report was contained in either the House bill or the Senate bill.

Mr. BARKLEY. Will the Senator yield there?

The VICE PRESIDENT. Does the Senator yield further?

Mr. SMOOT. Yes; I yield.

Mr. BARKLEY. Of course, the Senator knows that no timekeeping mechanism except a watch would be carried on the person. Nobody goes around with a Seth Thomas clock hung over his neck or in his pocket. The only time-keeping mechanism that a human being carries on his person is a watch.

Mr. SMOOT. Grant that that is so. Then, beginning with the next provision of which the Senator has just been speaking, it says:

> Having any type of stem, rim, or self-winding mechanism, and watch movements designed or intended to be worn or carried on or about the person.

They are designed for that. In the fore part of the paragraph there is no such word as "designed." Therefore, under the rule, and under the decisions of the courts, wherever there is an item and where there is a specific rate on the item itself, of course, the specific rate is the one that is applied.

Mr. BARKLEY. The Senator is mistaken, because in line 15, the third line of the House language, is this provision:

> Whether or not designed to be worn or carried on or about the person.

So that the word "designed" is there.

Mr. SMOOT. That does not refer to watches, I repeat. If it did refer to watches, the Senator's point of order would have to be sustained. It does not refer to watches.

The VICE PRESIDENT. If the Senator will permit the Chair to ask another question, under the latter part of paragraph 367, would the watch displayed by the Senator from Kentucky, which is designed to be carried in a case by a lady, not designed to be worn on the person but designed to be carried by a lady in a case in an automobile or in her purse be transferred?

Mr. SMOOT. Mr. President, if the Chair will permit me, it is not in the House provision. The Chair will note it is not there.

Mr. BARKLEY. Let me ask the Senator a question. The only part of this paragraph which specifically describes what is referred to by him is that part which bases the tariff on the width of the watch or the mechanism, being less than 1.77 inches wide. Then it goes on in a graduated way to levy a different rate. The smaller the watch is in diameter the higher the rate, but all of these specific descriptions cover watches which are less than 1.77 inches in width. The language at the beginning of paragraph 367 does not necessarily mean watches which are less than 1.77 inches in width.

Mr. SMOOT. The Senator refers to a watch. Watches are not covered in that at all.

Mr. BARKLEY. It does not say "watch," but it is the same thing.

Mr. SMOOT. Farther in the bill it takes specific care of that.

Mr. BARKLEY. It does not. I contend that the following portions of the bill take specific care of no kind of a watch, or any other sort of a movement, except one that is less than 1.77 inches in width. The language at the top of the section includes watches or movements or any other mechanism, whether intended or not or designed or not to be carried on the person, which are more than 1.77 inches in width, whether or not they are carried on or about the person. My contention is that it does not make any difference whether you call it a watch or call it something else. Both these schedules, the watch and clock schedules, paragraphs 367 and 368, are couched in technical language. It is not necessary to say "watch" or "clock," but it is a time mechanism, time-measuring instrument, whether or not designed to be carried on the person. That is a technical term, and nobody would contend that any sort of articles so described, referring to instruments carried on the person, could mean anything except a watch more than 1.77 inches in width.

Mr. SMOOT. Mr. President, the Senator would be perfectly correct if it were not for the language on line 18. Every statement he made would be correct. That provision is—

> Rim, or self-winding mechanism, and watch movements designed or intended to be worn or carried on or about the person, any of the above if completely assembled, whether or not in cases, containers, or housings—

And so forth. The Senator would be absolutely correct, I say again, if it were not for that language.

As to the other point of order, the Senator makes the point of order that the conference inserted the word "unset" after the word "jewels," in paragraph 367 (3) (d), and added to paragraph (c) (3) the following:

> Each assembly or subassembly (unless dutiable under clause (1) of this paragraph) consisting of two or more parts or pieces of metal or other material joined or fastened together shall be subjected to a duty of 3 cents for each such part or piece of material, except that in the case of jewels the duty shall be 20 cents instead of 3 cents.

The contention is made that the conference report—page 13, subparagraph d—by insertion of the word "unset," imposes a

duty of 20 cents each on set jewels as compared with 10 per cent in the House and Senate bills, resulting in an increase of 1,900 per cent.

The point of order is based on the erroneous assumption that the term "jewels" appearing in the House bill—page 99, line 3—and in the Senate bill—page 101, line 16—includes set jewels at the rate of 10 per cent, and that insertion of the word "unset" removes set jewels from the operation of the clause.

Set jewels have at no time been classified in the provision for jewels, and hence insertion of the word "unset" has no effect on rates, being for clarification only.

Set jewels are classified as parts of watches under paragraph 367 of the Senate bill at 45 per cent—page 101, lines 14 and 15—only unset jewels taking the 10 per cent rate.

Under the House bill set jewels fall within the definition of a subassembly, as they consist of two or more pieces of material fastened together—page 98, lines 22, et seq. The rate thereunder is the same as on the complete movement, a minimum of 75 cents. The rate in the conference report on jewels in settings is 20 cents each, but not more than the rate on the complete movement for which suitable, nor less than 45 per cent.

The effect of the action of the conferees is to decrease the duty on set jewels from the subassembly rate of the House bill, which in no case could be less than 75 cents, to the conference rate of 20 cents, instead of making an increase of 1,900 per cent as claimed in the point of order.

I will read at this point a letter from the Treasury. The Secretary writes me as follows:

JUNE 2, 1930.

MY DEAR MR. CHAIRMAN: I refer to your telephone conversation through the legislative counsel with the Commissioner of Customs relative to the classification of watch jewels, set, and in reply you are advised that it is the present practice to classify set watch jewels as parts of watches.

There have been no judicial decisions so far as I am advised, and it does not appear that importers have questioned this classification.

Very truly yours,

A. W. MELLON,
Secretary of the Treasury.

Hon. REED SMOOT,
Chairman Committee on Finance,
United States Senate.

Here is the classification as submitted by the Treasury Department:

The Treasury Department has been assessing duty on set jewels as parts of watches or clocks rather than as jewels under paragraphs 367 and 368 of the tariff act of 1922. A letter of the Secretary of the Treasury to the chairman of the Finance Committee dated June 2, 1930, is authority for this statement.

The principle is established that in the absence of evidence to the contrary, and in a case in which departmental practice is not clearly wrong, Congress ratifies administrative construction of a law when a new law with the same or similar language is enacted. (New Haven *v.* Interstate Commerce Commission (1905), 200 U. S. 361, 401, 402; United States *v.* Cerecedo (1908), 209 U. S. 337; Swigart *v.* Baker (1912), 229 U. S. 187.)

It would seem, then, that the provisions of either the House bill or the Senate bill for parts of watches and parts of clocks would be construed so that set jewels would take the rates for parts, since if either bill became law the courts would be bound by congressional ratification of administrative construction of the 1922 law.

The insertion of the word "unset" after "jewels" by the committee of conference, therefore, accomplishes no change in legal effect, and so should not be held to be beyond the power of the conferees, the insertion being a change solely for purposes of clarification.

Mr. BARKLEY. Mr. President, before we adjourn, I think I should call attention to another item in this watch schedule, which I omitted by oversight. It is with reference to the change of the language where the committee eliminated the words "if having any type of stem, rim."

In the House bill the provision covered any—

Time-keeping, time-measuring, or time-indicating mechanisms, * * * if having any type of stem, rim—

And so forth. In other words, under the House bill these watches bore a certain rate if they had a stem or rim by which they were wound.

Under the Senate bill, of course, there is the same provision. All watch movements come in under that schedule, but by the elimination by the conference committee of the language "or having any type of stem, rim," they have therefore set up a new classification, by which watches which do not have a stem or rim by which they are wound are assessed at a different rate from that carried in either the House or the Senate bill. I do not care to take the time of the Senate in arguing that, but the report does, by the elimination of that language, divide these watches into two classes, those which do and those which do not have a stem or rim by which they are wound, and the elimination of that language by the conferees, which was in effect in both bills, by specific reference in the House bill, and by general terms in the Senate bill, has set up a new classification at a different rate.

Mr. SMOOT. Mr. President, this point of order is apparently based on the assumption that the conference report transfers certain articles from paragraph 367 to paragraph 368, with resultant higher rates, by reason of the omission of the words "if having any type of stem, rim, or self-winding mechanism."

This contention seems entirely unsound, for the removal of words of limitation can by no stretch of the imagination be construed as narrowing the scope of the paragraph.

The only possible theoretical effect of the omission of the words would be to transfer certain articles from paragraph 368 to paragraph 367. A point of order based on such an assumption would not be good, if made, because actually there are no commercial mechanisms less than 1.77 inches wide and not having any type of stem, rim, or self-winding mechanism, except watch movements and clock movements.

The point of order is certainly not well taken.

EXECUTIVE SESSION

Mr. McNARY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The VICE PRESIDENT. Reports of committees are in order.

Mr. HALE. Mr. President, from the Committee on Naval Affairs I report favorably the nomination of Midshipman Harold K. Feiock to be an ensign in the Navy from the 5th day of June, 1930. I ask unanimous consent for the immediate consideration of the nomination.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

If there are no further reports of committees, the calendar is in order.

POSTMASTERS

The Chief Clerk read the nomination of Ralph E. Hanna to be postmaster at Beaverton, Oreg.

Mr. McNARY. May I ask the chairman of the committee whether a report has come in on this nomination?

Mr. PHIPPS. I do not recall the name.

Mr. McNARY. Let it go over for the day.

The VICE PRESIDENT. The nomination will be passed over.

STATE DEPARTMENT

The Chief Clerk read the nomination of William R. Castle, jr., of the District of Columbia, to be Assistant Secretary of State.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

DIPLOMATIC AND FOREIGN SERVICE

The Chief Clerk announced sundry nominations in the Diplomatic and Foreign Service.

The VICE PRESIDENT. Without objection, the nominations are confirmed, and the President will be notified.

THE JUDICIARY

ALFRED A. WHEAT

The Chief Clerk announced the nomination of Alfred A. Wheat to be chief justice of the Supreme Court of the District of Columbia.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

FRANK T. NEWTON

The Chief Clerk announced the nomination of Frank T. Newton to be United States marshal for the eastern district of Michigan.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

FREDERICK C. SCHNEIDER

The Chief Clerk announced the nomination of Frederick C. Schneider to be United States marshal, district of New Jersey.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

CUSTOMS SERVICE

The Chief Clerk announced the nomination of Joseph L. Crupper to be collector of customs, district No. 14, Norfolk, Va.

The VICE PRESIDENT. Without objection, the nomination is confirmed, and the President will be notified.

POSTMASTERS

The Chief Clerk announced as next on the Executive Calendar the nomination of sundry postmasters.

Mr. PHIPPS. I ask unanimous consent that the nominations be confirmed en bloc and the President notified.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc, and the President will be notified.

ARMY NOMINATIONS

The Chief Clerk announced as next on the Executive Calendar the nominations of sundry officers in the Regular Army.

The VICE PRESIDENT. Without objection, the nominations are confirmed, and the President will be notified.

RECESS

Mr. McNARY. I move that the Senate, as in legislative session, take a recess until to-morrow at 12 o'clock noon.

The motion was agreed to; and the Senate (at 5 o'clock), as in legislative session, took a recess until to-morrow, Thursday, June 5, 1930, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 4 (legislative day of May 29), 1930

ASSISTANT SECRETARY OF STATE

William R. Castle, jr.

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Edward F. Feely, to Bolivia.

CONSUL GENERALS

J. Klahr Huddle.
Joseph W. Ballantine.

VICE CONSULS OF CAREER

Taylor W. Gannett.
Calvin H. Oakes.
William E. Flournoy, jr.
Albert H. Cousins, jr.

SECRETARIES IN THE DIPLOMATIC SERVICE

John Farr Simmons.
Taylor W. Gannett.
Calvin H. Oakes.
William E. Flournoy, jr.
Albert H. Cousins, jr.

FOREIGN SERVICE OFFICERS

UNCLASSIFIED

Taylor W. Gannett.
Calvin H. Oakes.
William E. Flournoy, jr.
Albert H. Cousins, jr.

CHIEF JUSTICE, SUPREME COURT OF THE DISTRICT OF COLUMBIA

Alfred A. Wheat.

UNITED STATES MARSHALS

Frank T. Newton, eastern district of Michigan.
Frederick C. Schneider, district of New Jersey.

COLLECTOR OF CUSTOMS

Joseph L. Crupper, district No. 14, Norfolk, Va.

APPOINTMENTS IN THE ARMY

AIR CORPS

To be second lieutenants

Robert Lyle Brookings.
Maurice Milton Works.
Ivan Morris Atterbury.
James McKinzie Thompson.
John C. Schroeter.
Gerald Hoyle.
Arthur Francis Merewether.
Jarred Vincent Crabb.
Tom William Scott.
Lawrence C. Westley.
John Hubert Davies.
Anthony Quintus Mustoe.
Douglas Thompson Mitchell.
Robert Kinnaird Giovannoli.
Clarence Edward Enyart.
Carl Harold Murray.
Edwin William Rawlings.
Julius Kahn Lacey.
Theodore Brenard Anderson.
George Frank McGuire.
Oliver Stanton Picher.
William Johnson Scott.
Dyke Francis Meyer.
Hugh Francis McCaffery.
Minthorne Woolsey Reed.
Morley Frederick Slaght.
Roy Dale Butler.
Berkeley Everett Nelson.
Archibald Johnston Hanna.
Richard August Grussendorf.
John Hiett Ives.
Frederick Earl Calhoun.
Carl Ralph Feldmann.

PROMOTIONS IN THE ARMY

Ira Franklin Fravel to be colonel, Air Corps.
James Alfred Moss to be colonel, Field Artillery.
Charles Frederick Leonard to be colonel, Infantry.
Henry Clay Merriam to be colonel, Coast Artillery Corps.
Robert Wilbur Collins to be colonel, Coast Artillery Corps.
Jacob Earl Fickel to be lieutenant colonel, Air Corps.
Jesse Wright Boyd to be lieutenant colonel, Infantry.
Ebenezer George Beuret to be lieutenant colonel, Infantry.
Bruce La Mar Burch to be lieutenant colonel, Cavalry.
Rush Blodgett Lincoln to be lieutenant colonel, Air Corps.
James Bowdoin Wise, jr., to be major, Cavalry.
Henry Davis Jay to be major, Field Artillery.
Clarence Maxwell Culp to be major, Infantry.
Ray Lawrence Burnell to be major, Field Artillery.
Raphael Saul Chavin to be major, Ordnance Department.
John Lester Scott to be major, Coast Artillery Corps.
Philip Shaw Wood to be major, Infantry.
David Marshall Ney Ross to be captain, Infantry.
Robert Battey McClure to be captain, Infantry.
Geoffrey Cooke Bunting to be captain, Coast Artillery Corps.
Orion Lee Davidson to be captain, Infantry.
Thomas Francis Hickey to be captain, Field Artillery.
Leander Larson to be captain, Quartermaster Corps.
Emmett Michael Connor to be captain, Infantry.
Thomas Newton Stark to be captain, Infantry.
Thomas Adams Doxey, jr., to be first lieutenant, Field Artillery.
William Donald Old to be first lieutenant, Air Corps.
Grovener Cecil Charles to be first lieutenant, Infantry.
Andral Bratton to be first lieutenant, Field Artillery.
Harold Mills Manderbach to be first lieutenant, Field Artillery.
James Regan, jr., to be first lieutenant, Infantry.
George Laurence Holsinger to be first lieutenant, Field Artillery.
Harold Witte Uhrbrock to be first lieutenant, Infantry.
Leartus Jerauld Owen to be colonel, Medical Corps.
Frank Watkins Weed to be colonel, Medical Corps.
William Anderson Wickline to be colonel, Medical Corps.
David Sturges Fairchild, jr., to be colonel, Medical Corps.
Harry Reber Beery to be lieutenant colonel, Medical Corps.
Royal Reynolds to be lieutenant colonel, Medical Corps.
Ralph Godwin DeVoe to be lieutenant colonel, Medical Corps.
Joseph Julius Hornisher to be first lieutenant, Medical Corps.

PROMOTIONS IN THE NAVY

Midshipman Harold K. Feiock to be an ensign in the Navy.

POSTMASTERS

CALIFORNIA

Adeline M. Santos, Centerville.
Alice E. Schieck, Eldridge.
George A. Weishar, Hanford.
Robert G. Isaacs, Montague.
George P. Lovejoy, Petaluma.
Celine M. McCoy, Pismo Beach.
Edna J. Keeran, Princeton.
John A. Miller, Richmond.
C. Lester Covalt, San Anselmo.
Frank P. Oakes, Tehachapi.
Cynthia P. Griffith, Wheatland.
Frank C. Pollard, Yreka.

GEORGIA

George W. McKnight, Camilla.
Leila W. Maxwell, Danville.
Hugh C. Register, Hahira.
Venter B. Godwin, Lenox.
John E. Jones, Lula.
Sarah K. Scovill, Oglethorpe.
William H. Flanders, Swainsboro.
Gertie B. Gibbs, Ty Ty.
John W. Westbrook, Winder.
Daniel M. Proctor, Woodbine.

INDIANA

Jesse E. Greene, Daleville.
Roy M. Nading, Flat Rock.
Percie M. Bridenthrall, Leesburg.
Charles S. Dudley, Lewisville.
William S. Matthews, North Vernon.
Othor Wood, Waldron.

IOWA

James P. Hulet, Le Claire.
Helene F. Brinck, West Point.

KENTUCKY

Iley G. Nance, Slaughters.

MARYLAND

Edward M. Tenney, Hagerstown.
Alice C. Widmeyer, Hancock.
Charles D. Routzahn, Mount Airy.
Harry Bodein, Perry Point.
Allen M. Vanneman, Port Deposit.
Charles W. Glasgow, Street.

MINNESOTA

Earl D. Cross, St. Cloud.

NEW MEXICO

Effie C. Thatcher, Chama.
Nora A. Keithly, Hot Springs.

PENNSYLVANIA

Julia A. Ernest, Beavertown.
J. Richard Duncan, Heilwood.
Emma Zanders, Mauch Chunk.
Mabel M. Myer, Ronks.
Johanna Priester, Wheatland.

VIRGINIA

Rosalie H. Mahone, Amherst.
Thomas L. Woolfolk, Louisa.

SOUTH CAROLINA

Andrew L. Dickson, Calhoun Falls.
Ollie W. Bowers, Central.
Richard F. Smith, Clio.

WISCONSIN

Emma V. Clark, Black Earth.
Charles V. Walker, Bruce.
Raymond E. G. Schmidt, De Forest.
Bert B. Powers, Fennimore.
Henry E. Johnson, Frederic.
George S. Eklund, Gillett.
William McMahon, Lancaster.
Laurence G. Clark, Middleton.
Frank H. Colburn, Shiocton.

HOUSE OF REPRESENTATIVES

WEDNESDAY, *June 4, 1930*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

In our thoughts we desire to praise Thee, O Thou in whom there is no variableness, neither shadow of turning. The wonder of Thy love never grows weary; it is new every morning. Thou dost throw about us those merciful forces which we so much need. But, our Father, our minds, our hearts, and our wills need the consciousness of Thy presence. We would walk with the great Teacher in undivided inheritance which is to be revealed. Bless the causes of Thy kingdom, all agencies, all movements that seek the welfare of mankind. Unite us this day with Thee by solemn covenant. We breathe Thy holy name; may we never do anything to tarnish it. We rejoice that ours is the hope, the joy, and that inward life which inspire good cheer and gladness. In the Father's name. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 108) entitled "An act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House of Representatives to the bill (S. 3531) entitled "An act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes."

WITHDRAWAL OF A CONFERENCE REPORT

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to withdraw the conference report filed by me yesterday on H. R. 12205, granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and so forth, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The SPEAKER. The gentleman from Minnesota asks unanimous consent to withdraw the conference report filed by him yesterday on H. R. 12205. The Clerk will report the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

There was no objection.

SUSPENSION OF RAILROAD CONSOLIDATIONS

Mr. KVALE. Mr. Speaker, I ask unanimous consent to proceed for one minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. KVALE. Mr. Speaker, I have a telegram which I ask unanimous consent to have the Clerk read in my time.

The SPEAKER. Without objection, the Clerk will read the telegram.

There was no objection.

The Clerk read as follows:

MINNEAPOLIS, MINN., *June 2, 1930.*

Hon. PAUL J. KVALE,

Member of Congress from Minnesota, Washington, D. C.:

Understand Couzens joint resolution providing for temporary suspension railroad consolidations by Interstate Commerce Commission until Congress provides protection for interest of public and railroad employees passed Senate 21st. Advices indicate opponents Couzens resolution endeavoring prevent passage in House. Legislative board Brotherhood of Railroad Trainmen, Minnesota, respectfully urges you support Couzens resolution, hoping Congress will not adjourn until this important legislation has passed.

G. T. LINDSTEN, *Chairman.*

Mr. KVALE. Mr. Speaker, a similar resolution is pending in the House and I hope the membership of the House will have an opportunity to vote upon it before this session adjourns.

CONFERENCE REPORT—LEGISLATIVE APPROPRIATION BILL

Mr. MURPHY. Mr. Speaker, I call up the conference report on the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes, and I ask unanimous consent that the statement be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. The gentleman from Ohio asks unanimous consent that the statement be read in lieu of the report. Is there objection?

There was no objection.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 11, 12, and 21.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 19, 20, and 23, and agree to the same.

Amendment numbered 22: That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows: Restore the matter stricken out by said amendment amended to read as follows: "maintenance, repair, and operation of passenger motor vehicle, and exchange, care, operation, and maintenance of motor trucks"; and the Senate agree to the same.

The committee of conference have not agreed on amendments numbered 17 and 18.

FRANK MURPHY,
GEO. A. WELSH,
WM. P. HOLADAY,
JOHN N. SANDLIN,
Managers on the part of the House.

W. L. JONES,
REED SMOOT,
FRED HALE,
E. S. BROUSSARD,
ROYAL S. COPELAND,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses to the amendments of the Senate to the bill (H. R. 11965) making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes, submit the following statement explaining the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report:

On Nos. 1 and 2, relating to salaries, office of the Secretary of the Senate: Changes the title of a position.

On Nos. 3, 4, and 5, relating to committee employees of the Senate: In lieu of two assistant clerks at $4,200 each, as proposed by the House, appropriates for one such clerk at $4,200 and one such clerk at $3,900, as proposed by the Senate, and appropriates $200 additional for the clerk of the Committee on

Rules of the Senate toward the preparation biennially of the Senate Manual, as proposed by the Senate.

On Nos. 6, 7, 8, and 9, relating to the office of the Sergeant at Arms and Doorkeeper of the Senate: Appropriates for an additional messenger for the minority at $2,040, as proposed by the Senate, and appropriates for seven skilled laborers at $1,680 each, as proposed by the Senate, instead of four skilled laborers at such annual rate, as proposed by the House.

On No. 10: Appropriates $60,340 for reporting the debates and proceedings of the Senate, as proposed by the Senate, instead of $55,340, as proposed by the House.

On No. 11: Strikes out the provision inserted by the Senate with respect to transportation expenses of clerks or assistant clerks to Senators and Representatives or clerks or assistant clerks to committees of the Senate and House.

On No. 12: Appropriates $4,000 for preparation of statement of appropriations, as proposed by the House, instead of $2,000, as proposed by the Senate.

On Nos. 13, 14, 15, 16, 19, and 20, relating to the Architect of the Capitol: Makes specific provision under "Capitol Buildings" for electrical substations of the Senate and House Office Buildings, as proposed by the Senate; continues available until June 30, 1931, the unexpended balance of the appropriation for the reconstruction of the Senate wing of the Capitol, as proposed by the Senate; appropriates $2,500 for traveling expenses, as proposed by the Senate, instead of $1,500, as proposed by the House; strikes out authority to use appropriations for advertising, as proposed by the Senate; excludes the Union Station group of temporary housing from the establishments to be served by the Capitol power plant, as proposed by the Senate; and excludes the Department of the Interior and the Union Station group of temporary buildings from the establishments required to reimburse the Capitol power plant for service furnished thereby, as proposed by the Senate.

On Nos. 21, 22, and 23, relating to the Botanic Garden: Appropriates $101,260 for salaries, as proposed by the House, instead of $101,990, as proposed by the Senate; restores the House language with respect to motor vehicles, amended to provide specifically for the operation of motor trucks; and continues until June 30, 1931, as proposed by the Senate, the appropriation of $600,000 for enlarging and relocating the Botanic Garden contained in the deficiency appropriation act approved December 22, 1927.

The managers on the part of the House have agreed to recommend that the House concur in Senate amendment No. 17, relating to the Senate Office Building, and to concur with an amendment in Senate amendment No. 18, providing for the completion of the Senate Office Building.

FRANK MURPHY,
GEO. A. WELSH,
WM. P. HOLADAY,
JOHN N. SANDLIN,
Managers on the part of the House.

Mr. MURPHY. Mr. Speaker, ladies and gentlemen of the House, there is nothing controversial in this conference report. I will ask permission at this time to place in the RECORD a statement I prepared to read at this time but because of the pressure of business I do not care to take any further time of the House.

The SPEAKER. Is there objection?

There was no objection.

The statement referred to follows:

LEGISLATIVE BILL

Bill as passed by House carried	$26,000,841.58
Bill as passed by Senate carried	26,556,497.58
Total Senate increases	555,656.00
As agreed to in conference, including amendments Nos. 17 and 18, brought back for disposition by the House, the bill carries	26,557,767.58
Such sum exceeds the total of the bill as passed by the House by	556,926.00
And it exceeds the total of the bill as passed by the Senate by	1,270.00
As agreed to, however, the bill comes within the Budget estimates by	4,118,560.40

The Senate placed 23 amendments on the bill, 9 of which affect the appropriation figures, as follows:

No.		Decrease	Increase
3, 4	Certain compensation adjustments of Senate employees.	$100.00	
6, 8	4 additional employees under Sergeant at Arms and Doorkeeper of Senate.		$7,080.00
10	Stenographic services, Senate		5,000.00
12	Preparation of statement on appropriations	$2,000.00	
17	Maintenance, Senate Office Building		$44,946.00
18	Toward completion of Senate Office Building		500,000.00
21	Salaries, Botanic Garden		730.00
		2,100.00	557,756.00
			2,100.00
	Net increase		555,656.00

It will be observed that all but two (Nos. 12 and 21) of these nine amendments relate exclusively to the Senate, and as to such Senate items the House conferees have receded or will propose to recede.

The Senate receded from amendments Nos. 12 and 21, which has the effect of restoring the appropriation of $4,000 proposed by the House for the preparation of the statement of appropriations and of allowing the House figure of $101,260 for salaries at the Botanic Garden.

The principal Senate increase of $500,000 is part of a project for completing the Senate Office Building, estimated to cost $5,868,650, in which sum estimates have been presented by the Bureau of the Budget. The amount included by the Senate and agreed to by the conferees is for completing that part of the project dealing with the treatment of the approach to the northwest entrance to the Senate Office Building at the corner of Delaware Avenue and C Street NE., so as to make it conform with the main entrance to such building.

Of the remaining Senate amendments, but three are of any particular significance:

No. 11 relates to the payment of transportation expenses of secretaries to Senators and Representatives, from which amendment the Senate has receded.

No. 14 continues the availability of the appropriation for reconstructing the Senate wing of the Capitol, which is the proposition to alter the Senate Chamber. The House receded on this amendment.

No. 23 continues available the appropriation of $600,000, made in 1927, for enlarging and relocating the Botanic Garden. The House receded on this amendment.

Mr. STAFFORD. Will the gentleman yield for one question?

Mr. MURPHY. Gladly.

Mr. STAFFORD. I wish to direct the attention of the House to Senate amendment No. 19, which excludes the Union Station group of temporary housing from the establishments to be served by the Capitol power plant, to which, I believe, the House conferees have agreed. I understand the purpose of that amendment is to eliminate all of the temporary buildings on the Plaza.

Mr. MURPHY. The reason for this amendment is that all of these buildings are now being demolished just as rapidly as can be accomplished.

Mr. STAFFORD. And this is forcing that issue so that no provision will be made for heating any of the dormitories located on the Plaza?

Mr. MURPHY. Not at all. Mr. Speaker, I move the previous question on the adoption of the conference report.

The previous question was ordered.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Amendment No. 17. On page 27, line 1, strike out the sign and figures "$157,268." and insert "acting through the Architect of the Capitol, who shall be its executive agent, $202,214."

Mr. MURPHY. Mr. Speaker, I move to recede and concur in the Senate amendment.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Amendment No. 18. Page 27, after line 4, insert:

"Toward the completion of the Senate Office Building, $500,000: *Provided*, That the Architect of the Capitol is hereby empowered to enter into contracts within the sum of this appropriation for the necessary traveling expenses, advertising, purchase of material, supplies, equipment, and accessories in the open market; and the employment of all necessary skilled, architectural, and engineering personnel and other services, without reference to section 35 of the act approved June 25, 1910, the amount hereby appropriated to be disbursed by the disbursing officer of the Department of the Interior."

Mr. MURPHY. Mr. Speaker, I move to recede and concur in the amendment of the Senate with an amendment, which I send to the Clerk's desk.

The SPEAKER. The gentleman from Ohio moves to recede and concur in the Senate amendment with an amendment, which the Clerk will report.

The Clerk read as follows:

Mr. MURPHY moves to recede and concur in Senate amendment No. 18, with an amendment, as follows:

"For the completion of the approach to the Senate Office Building at the corner of Delaware Avenue and C Street NE., in general conformity with other similar treatments adjoining such building at the main entrance thereto, $500,000: *Provided*, That the Architect of the Capitol is hereby empowered to enter into contracts within the sum of this appropriation for the necessary traveling expenses, advertising, purchase of material, supplies, equipment, and accessories in the open market; and the employment of all necessary skilled, architectural, and engineering personnel and other services, without reference to section 35 of the act approved June 25, 1910, the amount hereby appropriated to be disbursed by the disbursing officer of the Department of the Interior."

The motion was agreed to.

NELLIE HICKEY

Mr. IRWIN. Mr. Speaker, by direction of the Committee on Claims, I ask unanimous consent to take from the Speaker's table H. R. 937, a bill for the relief of Nellie Hickey, with a Senate amendment, and agree to the Senate amendment.

The SPEAKER. The gentleman from Illinois asks unanimous consent to take from the Speaker's table House bill 937, with a Senate amendment, and agree to the Senate amendment. The Clerk will report the bill and the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 1, line 4, after "Hickey," insert "out of any money in the Treasury not otherwise appropriated."

The SPEAKER. Is there objection?

There was no objection.

The Senate amendment was agreed to.

CONSTRUCTION OF CERTAIN BRIDGES

Mr. DENISON. Mr. Speaker, I call up the conference report on the bill (H. R. 9806) to authorize the construction of certain bridges and to extend the times for commencing and completing the construction of other bridges over the navigable waters of the United States and ask unanimous consent that the statement be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read the statement.

Following are the conference report and accompanying statement:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9806) to authorize the construction of certain bridges and to extend the times for commencing and completing the construction of other bridges over the navigable waters of the United States having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, and 26, and agree to the same.

That the House recede from its disagreement to the amendment of the Senate numbered 24, and concur therein with an amendment as follows: In lieu of the matter proposed to be stricken out by said Senate amendment numbered 24 restore all of section 4 of the House bill and insert the word "South" after the word "near" and before the word "Omaha" on page 17, line 24; and in lieu of the matter to be inserted by said Senate amendment numbered 24 restore the said matter as a new section, with the following language, on page 6, beginning in line 7 of the Senate engrossed amendment stricken out "at or near South Omaha, Nebr., and also a bridge"; and the Senate agrees to the same.

That on page 15, line 1, of the bill, the word "his" be stricken out and the word "its" inserted in lieu thereof.

E. E. DENISON,
TILMAN B. PARKS,
Managers on the part of the House.

R. B. HOWELL,
JOS. E. RANSDELL,
MORRIS SHEPPARD,
A. H. VANDENBERG,
HIRAM W. JOHNSON,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 9806 submit the following written statement explaining the effect of the action agreed upon by the conference committee and submitted in the accompanying conference report:

H. R. 9806 was an omnibus bridge bill containing 16 sections and authorizing the construction of 15 different bridges, in different parts of the country. Each of the first 15 sections granted to various individuals or companies the right or authority to construct certain bridges.

Section 3 of the bill authorized Charles B. Morearty, his heirs, legal representatives, and assigns to construct a bridge across the Missouri River, at or near South Omaha, Nebr. By its amendments, Nos. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, the Senate struck out the name of "Charles B. Morearty, his heirs, legal representatives, and assigns," in the various provisions of that section, and inserted in lieu thereof the names of "Richard L. Metcalf, mayor of Omaha, Nebr., his successors in office; Oscar H. Brown, mayor of Council Bluffs, Iowa, and his successors in office; Harry H. Lapidus, of Omaha, Nebr.; Mathew E. O'Keefe, of Council Bluffs, Iowa; and C. A. Sorensen, attorney general of the State of Nebraska, and his successors in office, all as trustees." By these various amendments above numbered, the Senate changed section 3 so as to authorize the parties just named as trustees to construct, maintain, and operate the bridge across the river at Omaha instead of Charles B. Morearty, his heirs, legal representatives, and assigns.

The Senate also struck out the word "South" before the word "Omaha" in this section, so as to locate the bridge authorized at Omaha instead of South Omaha, and the managers on the part of the House have receded from their disagreement to these amendments and have agreed to the same, thereby authorizing the bridge to be constructed at Omaha by the parties named as trustees.

Section 4 of the bill authorized Charles B. Morearty, his heirs, legal representatives, and assigns to construct another bridge across the Missouri River at or near Omaha, Nebr. The Senate amendment No. 24 struck out all of this section of the bill and inserted in lieu thereof a new section authorizing the same parties as trustees to build a bridge at South Omaha as were authorized by their amendments to section 3 to build the bridge at Omaha. To this amendment of the Senate the managers on the part of the House concurred with an amendment striking out all of the Senate amendment and restoring section 4 of the House bill as it passed the House, with the exception of inserting the word "South" before the word "Omaha," in line 24, on page 17 of the bill, so as to confer authority upon Charles B. Morearty, his heirs, legal representatives, and assigns to construct a bridge across the Missouri River at or near South Omaha, Nebr.

Senate amendment No. 25 inserted a new section in the bill providing for the regulation of tolls over certain bridges. In substance this section provided that in the case of bridges heretofore authorized by acts of Congress specifically reserving to Congress the right to subsequently regulate tolls on such bridges, such bridges shall hereafter, in respect of the regulation of all tolls, be subject to the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906. It seems that there is an existing privately owned toll bridge across the Missouri River between Omaha, Nebr., and Council Bluffs, Iowa, which was constructed many years ago under a special act of Congress. In that act Congress specifically reserved the right to subsequently regulate the tolls. The effect of the Senate amendment No. 25 is for Congress to assert its authority reserved in the act authorizing the construction of that bridge and to place the regulation of tolls charged at that bridge under the provisions of the gen-

eral bridge act of March 23, 1906. The managers on the part of the House receded from their disagreement to this amendment and agreed to the same.

E. E. DENISON,
TILMAN B. PARKS,
Managers on the part of the House.

Mr. COCHRAN of Missouri. Mr. Speaker, I would like to ask the gentleman from Illinois [Mr. DENISON] a question. Were the changes in the bill that were made in conference approved by the Senator from Nebraska, Senator HOWELL?

Mr. DENISON. The Senator from Nebraska was one of the members of the conference and agreed to them.

The conference report was agreed to.

SPANISH WAR PENSION ACT

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to insert in the RECORD a brief synopsis of the Spanish War pension bill, which was passed by the House with so much gusto on day before yesterday.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KNUTSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include a synopsis of the new Spanish War pension act of June 2, 1930.

TITLE

Ninety days' service and honorable discharge, between April 21, 1898, and July 4, 1902, or less than 90 days' service provided discharged for disability due to service in the line of duty.

This law is an increase over the former Spanish War pension act of May 1, 1926, as to the soldiers, sailors, marines, and nurses.

SOLDIERS, SAILORS, MARINES, AND NURSES DESCRIBED IN THE ACT

The new act grants a pension to those described under this heading from $20 to $60 per month according to disability and $72 per month for those who are helpless or blind, or so nearly helpless or blind, as to need or require the regular aid and attendance of another person.

The $60 and $72 rates do not apply to inmates of a State or national soldiers' home.

To obtain original or increase of pension under this act for any given rate application must be filed with the Commissioner of Pensions. Those now pensioned under the former Spanish War pension act of May 1, 1926, will not be automatically increased but will be placed on the pension roll under the provisions of this act, after application has been filed with the Commissioner of Pensions and such application has been approved by him.

On account of disability not necessarily due to service

	Per month
May 1, 1926:	
One-tenth disability	$20
One-fourth disability	25
One-half disability	30
Three-fourths disability	40
Total disability	50
June 2, 1930:	
One-tenth disability	20
One-fourth disability	25
One-half disability	35
Three-fourths disability	50
Total disability	60

On account of age

May 1, 1926:	
62 years of age	20
68 years of age	30
72 years of age	40
75 years of age	50
62 years of age	30
68 years of age	40
72 years of age	50
75 years of age	60

TITLE

Seventy days' service and honorable discharge, between April 21, 1898 and July 4, 1902.

SOLDIERS, SAILORS, MARINES, AND NURSES DESCRIBED IN THE ACT

The 70 days' service provision in this act is entirely new and was not contained in the prior Spanish War pension act of June 5, 1920, or the act of May 1, 1926.

This provision grants a pension to those described under this heading from $12 to $30 per month, according to disability and $50 per month for those who are helpless or blind, or so nearly helpless or blind, as to need or require the regular aid and attendance of another person.

To obtain original or increase of pension under the 70 days' section of this act, it will be necessary to file an application with the Commissioner of Pensions. The original or increase of pension, if allowed, will commence from the date of filing application and is not automatic.

On account of disability not necessarily due to service

	Per month
One-tenth disability	$12
One-fourth disability	15
One-half disability	18
Three-fourths disability	24
Total disability	30

On account of age

62 years of age	12
68 years of age	18
72 years of age	24
75 years of age	30

NOT AUTOMATIC

The increase of pension if allowed under the provisions of this act will not be automatic, but will commence from the date of filing application with the Commissioner of Pensions. This applies to both the 70-days' and 90-days' provision.

The elimination of the vicious habits clause and the 70-days' service provision are entirely new legislation for Spanish War veterans.

REMARKS

Claims for increase of pension filed under the provisions of this act will be presumed to have been filed for the purpose of receiving the equivalent rate provided by this act for the degree of disability or age, for which present rate was granted.

Medical examinations will not be ordered in these cases unless in or with the application there is a specific request for a medical examination under the claim.

As those in receipt of $20 or $25 per month for disability are not benefited by this act, medical examination to determine present degree of disability must, as a matter of course, be made in such cases.

This mode of procedure will enable the Bureau of Pensions to give the veterans more promptly the benefits of this act. Veterans and their friends are urged to refrain from sending in letters as to their claims.

These claims will be taken up for consideration in the order of filing, and correspondence will take up time that should be given to the adjudication of the claims and as a consequence retard the work of the bureau.

A short form of application for increase of pension approved by the department is as follows:

3-002a

APPLICATION FOR THE INCREASED RATE OF PENSION PROVIDED BY THE ACT OF JUNE 2, 1930

WAR WITH SPAIN, PHILIPPINE INSURRECTION, OR CHINA RELIEF EXPEDITION

(The pension certificate should not be forwarded with this application.)

On this — day of ———, 1930, personally appeared ——— ———, who is a pensioner at $——— per month under the act of May 1, 1926.

He hereby makes application for the increased rate of pension provided by the act of June 2, 1930, for the age or the degree of disability for which he is now pensioned.

The number of his pension certificate is ———.

——— ———, ——— ———.

(Signature of first witness.) (Claimant's signature in full.)

——— ———.

(Address of first witness.) (Claimant's address in full.)

(Signature of second witness.)

——— ———.

(Address of second witness.)

Subscribed and sworn to before me this — day of ———, 1930, and I hereby certify that the contents of the above application were fully made known and explained to the applicant before swearing, including the words ——— ——— erased and the words ——— ——— added; and that I have no interest, direct or indirect, in the prosecution of this claim.

[L. S.] ——— ———.

(Signature.)

——— ———.

(Official character.)

PROHIBITION

Mr. CULLEN. Mr. Speaker, I ask unanimous consent to extend my remarks on the bills of the Judiciary Committee that were considered on yesterday and also on the one that is pending to-day.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CULLEN. Mr. Speaker, ladies and gentlemen of the House, I am opposed to the bills that are now before the House, as I consider them unwise and unnecessary. The bill denying the right to a jury trial is un-American, unjust, and violates that which was guaranteed to us by the fathers. We might be better engaged in discussing and considering the bills introduced by Senator WAGNER for the purpose of alleviating the suffering and hardship caused by the present unemployment situation.

Ten years ago an amendment to our Constitution was adopted taking away the personal and civil liberties guaranteed to our people by the fathers. At the same time the Congress passed the Volstead Act to administer the law. I stand foursquare for the repeal of the eighteenth amendment and the Volstead Act. I realize what a hard task it is to repeal the eighteenth amendment, but there is a revulsion of feeling by the people throughout the country against the eighteenth amendment and the Volstead Act, and it should be and can be repealed.

The Congress in recent years has been so overwhelmingly dry in sentiment that we who were opposed to prohibition received scant notice whenever we attempted to voice our opinions as to this particular provision in the Constitution.

Why, as a matter of fact, any Member of this body who had the audacity to question the wisdom of the prohibition amendment, who saw fit to rise on his feet and petition his Government and ask for a change in the law, was branded by the proponents of prohibition as being un-American, a nullificationist, and a defamer of the Constitution. It seems to me that such a stand by the proponents of prohibition is somewhat extreme. As Members of this great legislative body we should look at this question in a moderate, sensible way. It should be our duty to our Nation to consider the prohibition situation calmly and endeavor to determine the best method of accomplishing beneficial results in whatever appears to be the most practical and effective manner.

We have now had a decade of this noble experiment, and since the tenth anniversary of our prohibition policy the American people have commenced to consider carefully what the effect of 10 years of prohibition has had upon the life of the Nation.

The American people at this time are analyzing the situation impartially, and I do believe are slowly coming to the realization that prohibition from a temperance point of view, which was after all the strongest and most frequent argument used by its sponsors, is a handicap rather than any real aid.

I believe that the recent wet and dry hearings held by the unofficial organized wet committee of the membership of the House before the House Judiciary Committee has helped to enlighten the people. Those appearing as witnesses in opposition to the prohibition amendment were composed of some of the outstanding men and women of the country. Amongst these witnesses were found some of our great financiers, educators, prominent manufacturers, and business men, as well as eminent physicians, lawyers, and clergymen.

This is most interesting when we consider the propaganda that has been presented to the people by the sponsors of the dry movement for these many years. It is a matter of common knowledge that they have consistently stated that the only class of people who were at all opposed to prohibition were that class that made up the laboring element of the Nation. In view of these statements, it was illuminating to see so many outstanding individuals of the Nation appear before the Judiciary Committee for the purpose of voicing their strenuous objections to the existing law. Certainly no one here will deny that these witnesses, who were not in any way associated with any professional wet or dry organization, had any other motive in appearing before the committee than to show in what way the present law has been disastrous to the welfare of their particular interest and the country as a whole.

Another indication of the tremendous change in sentiment is the surprising results of the Literary Digest poll. We all know that the Digest polls have been noted for their remarkable accuracy.

Then, again, we have the new association known as the "Crusaders." This association was organized by a group of young men who are representative in our country's activities. From the information that I have gathered this organization has sprung up like a mushroom, and at the present time has thousands of members in every community throughout the United States.

My purpose in citing the foregoing is to show that after 10 years of apparent indifference as to the practicability of the eighteenth amendment the people are finally aware of the futility of continuing this disastrous experiment.

I would like to say a few words as to the effect this law has had upon the youth of the country. This is of such vital importance that it seems to me that we can not continue to ignore it. The young people of to-day will be our leaders when we have passed beyond, and I trust that we will not leave such a notorious, unsound, illogical, senseless act as the eighteenth amendment and the Volstead Act as a heritage to them.

I have never been worried about our country being disintegrated as the result of an invasion by a foreign enemy. A much greater danger lies in our internal condition, and I believe you will agree with me that history has too often shown that the fall of most nations has been attributed to the decay of a nation's vitality and not to foreign aggression.

What has prohibition accomplished in these years of experiment?

Statistics, or recorded facts, whatever you wish to call it, indicate that there is more drunkenness to-day after 10 years of experiment with the prohibition amendment than there was prior to prohibition. When the law was first adopted its proponents used to say with pride that our children will be the ones that will benefit by it. Is there anyone in the House who can conscientiously say that this prediction has been fulfilled?

Assuming that one of the real objectives of prohibition was to promote a healthier atmosphere in the home community, certainly that objective has not been attained, because in the place of comparatively harmless wines and beers, we have to-day substituted in its place strong liquors that are in most instances of a poisonous nature. I am firm in my conviction that this has contributed in the undermining of the health and the fiber of the youth, as well as their elders. So we see that prohibition has not only failed in its purpose but has utterly failed as a moral measure.

There is another aspect to consider in connection with prohibition, and of the utmost importance to our country, and that is that our citizens in all walks of life have violated not only the prohibition law with apparent indifference, but have lost a great deal of respect for all laws. The continuation of this sad state of affairs will most certainly end in disaster.

In my opinion, it is about time that the calm and conservative majority of our people begin to take stock and determine whether this policy is worth all the disaster that has been caused by it.

I never shall believe that prohibition has been worth the sacrifice of our personal and political liberties, which were at one time won through the bloodshed and suffering of our fathers. They bequeathed this precious inheritance to their children, and we have sacrificed what they strived for at the altar of prohibition.

After 10 years of intolerable conditions it has been conclusively shown that prohibition has neither accomplished a moral reform or, as far as I can see, has not in any way improved temperance conditions. I trust that the calm and conservative majority whose sole interest is the welfare of our country will begin to realize that there is neither wisdom or sound logic in continuing such an obnoxious law, and that in the coming elections the people throughout the Nation will voice their wholehearted disapproval of such an unreasonable and unpopular law in order that we may restore our treasured American principles.

This obnoxious law was born in deceit. It was put over on the people during the period of the war and when millions of our young blood were proudly wearing the uniform of our country and defending our flag.

The eighteenth amendment and the Volstead Act should be repealed and the people given back their God given rights of personal liberty, the pursuit of happiness and the freedom of conscience, which the "wise fathers" gave us and which we prospered under and became the great country that we are to-day.

CORRECTIONS

Mr. LAGUARDIA. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. LAGUARDIA. Mr. Speaker, especially in the closing days of a session, is it not true that purely typographical errors in the RECORD may be corrected by simply noting the correction and handing it to the RECORD clerk, thereby saving the time of the House and also space in the RECORD?

The SPEAKER. The Chair thinks the rule is that anything that corrects the remarks of another Member or puts a different aspect on a Member's own remarks requires consent, but corrections such as the two just made, the Chair thinks can be made in the manner suggested by the gentleman.

AMENDMENT OF THE IMMIGRATION ACT

Mr. COOKE. Mr. Speaker, I ask unanimous consent that I may have three legislative days in which to file my minority

views in opposition to the bill (S. 51) to amend subdivision (c) of section 4 of the immigration act of 1924, as amended, recently reported to the House by the Committee on Immigration and Naturalization.

Mr. JOHNSON of Washington. Mr. Speaker, reserving the right to object, I would like to ask the gentleman if by some strange method his views have not been stated in the minority views of two others.

Mr. COOKE. In reply to the gentleman I would say there is an expression in that report that does not reflect my views, and I would like to correct it by a report of my own.

Mr. JOHNSON of Washington. The gentleman wants to put in his own views instead of having some one do it for him?

Mr. COOKE. That is it exactly.

Mr. JOHNSON of Washington. I certainly shall not object.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

PERMISSION TO ADDRESS THE HOUSE

Mr. JOHNSON of Washington. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

Mr. SNELL. Mr. Speaker, reserving the right to object, we have a full program for this afternoon. It will take us until 5 or 6 o'clock to-night to complete the program. Three or four gentlemen have asked me if I would object if they requested permission to address the House, and I have told each one of them that for the present I would have to object to any unanimous consent requests to address the House at this time.

Mr. JOHNSON of Washington. I dislike very much to suggest such a thing on a hot day, but I make the point, Mr. Speaker, that there is no quorum present.

The SPEAKER. Evidently there is no quorum present.

Mr. TILSON. Mr. Speaker, I move a call of the House.

The motion was agreed to.

Accordingly the doors were closed, the Sergeant at Arms was directed to notify absent Members, the Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 59]

Abernethy	Doutrich	Korell	Stedman
Andrew	Doyle	Kunz	Stevenson
Bacharach	Dunbar	Lampert	Stone
Bankhead	Eaton, N. J.	Langley	Strong, Kans.
Beck	Estep	McCormick, Ill.	Sullivan, N. Y.
Bloom	Esterly	McLaughlin	Sullivan, Pa.
Brigham	Evans, Calif.	Maas	Taylor, Colo.
Britten	Fort	Manlove	Taylor, Tenn.
Buchanan	Gambrill	Mead	Treadway
Carter, Wyo.	Garber, Va.	Michaelson	Turpin
Chase	Goldsborough	Milligan	Underhill
Cochran, Pa.	Greenwood	Mooney	Underwood
Collins	Hoffman	Newhall	Vincent, Mich.
Connery	Hudspeth	Nolan	Walker
Connolly	Hull, Tenn.	Norton	White
Coyle	Igoe	Owen	Whitehead
Craddock	James	Peavey	Williams
Curry	Johnson, Ill.	Porter	Wingo
Dempsey	Johnson, Okla.	Pratt, Harcourt J.	Wyant
De Priest	Kearns	Rayburn	Yon
Dickinson	Kemp	Romjue	Zihlman
Dickstein	Ketcham	Sirovich	
Douglas, Ariz.	Kiess	Spearing	

The SPEAKER. On this vote 337 Members have answered to their names; a quorum is present.

Mr. TILSON. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

TO PROVIDE FOR SUMMARY PROSECUTIONS IN PETTY OFFENSES

Mr. GRAHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 9937) to provide for summary prosecution of slight or casual violations of the national prohibition act; pending that I wish to make a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GRAHAM. I understand from the RECORD that while we are in Committee of the Whole there are three hours for general debate, one hour and a half to be controlled by myself and one hour and a half to be controlled by the gentleman from Virginia [Mr. MONTAGUE].

The SPEAKER. That is correct.

The motion of Mr. GRAHAM was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. LEHLBACH in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill which the Clerk will report.

The Clerk read the title of the bill.

Mr. GRAHAM. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. GRAHAM. Mr. Chairman, I yield 15 minutes to the gentleman from South Dakota [Mr. CHRISTOPHERSON].

Mr. CHRISTOPHERSON. Mr. Chairman and gentlemen of the committee, this bill has for its purpose the relief of congestion in the Federal courts. In order to fully realize the situation let us take a brief view of the Federal court structure.

When our Constitution was drafted the men who prepared that document and placed in it provisions relating to the Federal judiciary, they could not look ahead and foresee the time when the Federal courts would have the many complex matters to attend to which Congress has brought to them in subsequent years. Therefore they did not make provision for intermediate courts, such as police courts, magistrate courts, and the like that are so general in the court structure of the States.

It is true that we can provide inferior courts, but those courts would have to have all of the machinery and have a life tenure of the judges, as provided in the Constitution.

Therefore no provision having been made for such inferior courts, as a consequence of legislation of late years there has come to the Federal courts a volume of petty criminal cases that has caused congestion in those courts.

The question is as to what is the best method to alleviate that situation. Various suggestions have been made. One was to appoint additional Federal judges. That can be done, but that will mean a life tenure, and the congestion may be only temporary.

The second way was to provide intermediate courts of limited jurisdiction, but that would be with life tenure and all court machinery, and in time many of these courts may not be necessary.

The next suggestion is that we make use of the machinery of the courts at present, namely, that of United States commissioners.

Mr. CELLER. Will the gentleman yield?

Mr. CHRISTOPHERSON. I will yield.

Mr. CELLER. Has the gentleman read the report of the senior circuit judges, where they claim that the congestion does not exist except in a few courts?

Mr. CHRISTOPHERSON. Yes; and I know what the Attorney General said in his report in January, in which he stresses the fact that the Federal courts are congested to an extent that tends to the practice of what is termed bargain days and amounts to a practical denial of justice.

Mr. CELLER. That may be true in those courts where there is congestion. The remedy in this bill provides for a new system throughout the country, so would not the gentleman say that where there is no congestion there is no need for this bill?

Mr. CHRISTOPHERSON. This does not provide for an entirely new system. In 1916 we conferred upon the United States commissioners in the United States parks this same authority to try and hear cases, and in 1920 likewise. In that instance we conferred the power to try the cases in question, and it provides for an appeal from those commissioners to the courts. So it is not a new system entirely. The gentleman will find that we conferred it in title 16 of the United States Code, beginning with section 66. But let me proceed. The matter of congestion in the courts, I think, is conceded.

It may not be general all over, but we know that there is congestion in the Federal courts and the aim of this bill is to relieve that, and in so doing to use the machinery we already have, viz, that of the United States commissioners, and it provides simply that when a man is arrested he may be brought before the commissioner, and there he may tender a plea of guilty or he may plead not guilty, and in the event of a plea of guilty, that is sent up to the Federal court and the judge then looks into it and passes upon the recommendation and report of the commissioner, a very simple proceeding to say the least. If he pleads not guilty, then the commissioner may proceed to a hearing. He takes testimony, and he makes a report and recommendations and that also goes up to the court. The court may adopt the recommendations of the commissioner and impose the sentence recommended, or he may set them aside and make a finding of his own.

Mr. LAGUARDIA. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. LAGUARDIA. I know the gentleman wants to be fair. The duty is imposed upon the judge to make all findings. That is correct, is it not?

Mr. CHRISTOPHERSON. Yes; he makes the findings.

Mr. LAGUARDIA. Necessarily he will have to read all of the report and the testimony to make the finding.

Mr. CHRISTOPHERSON. Not necessarily. He may rely upon the report of the commissioner unless there are exceptions

taken to it. That is not unusual in the courts. For example, commissioners in chancery make reports and if there are no exceptions taken to the reports the court approves of those reports. That is the very purpose of delegating to these officers like a commissioner in chancery or these commissioners the duty of ascertaining the facts and making a concise report.

Mr. LAGUARDIA. That is an honest answer, and I thank the gentleman for the concession.

Mr. RAMSEYER. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. RAMSEYER. It has been suggested here that some of the courts are not congested. Take it in a district where the district judge has not any more to do than he can take care of. Could he continue to try these petty cases as he does now or does this bill propose to take that power altogether away from him?

Mr. CHRISTOPHERSON. It does not. They may be prosecuted before the court. The district attorney may take the defendants into the Federal court if he so desires.

Mr. RAMSEYER. In the first instance?

Mr. CHRISTOPHERSON. Yes.

Mr. RAMSEYER. Then it is not mandatory that these cases go to the commissioners?

Mr. CHRISTOPHERSON. No; it is not exclusive. The district attorney may have the matter considered before the grand jury if he so desires just as he does now.

Mr. RAMSEYER. Then it is not proposed to take away any power from the district courts?

Mr. CHRISTOPHERSON. None whatever. This is merely adding a simple procedure, to consider the petty offenses defined in the bill passed yesterday.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. SABATH. Is there any provision as to how many of these commissioners shall be appointed, and by whom?

Mr. CHRISTOPHERSON. This bill does not make any change in the law in that respect. Their tenure of office and their appointment under this bill will be just the same as they are now.

Mr. SABATH. Will this act give the judges additional power to appoint more than one commissioner?

Mr. CHRISTOPHERSON. No. This bill does not change the law as to appointment of commissioners.

Mr. SABATH. Under the present law the judge has a right to appoint one commissioner.

Mr. CHRISTOPHERSON. I am not familiar with that, but this bill makes no change in the law in that respect whatever.

Mr. SABATH. So the present acting commissioner would have this jurisdiction?

Mr. CHRISTOPHERSON. Yes; until his term expired and he is either reappointed or another one succeeds him.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. LINTHICUM. The gentleman replied to the gentleman from New York [Mr. LAGUARDIA] that these hearings would go before the judge and might be read or not, and he might accept the recommendation of the commissioner. Does not the gentleman think that the fact that the witnesses do not appear before the judge and the culprit does not appear before the judge will deprive him of much information useful in deciding the case that he would otherwise have? The defendant may be a man who has been guilty once of violating the law, or he might be a man who had been in the habit of violating the law. The judge will not see the man and he does not see the witnesses. Does not the gentleman think that presents a dangerous situation and prevents proper consideration?

Mr. CHRISTOPHERSON. No; not at all. When the commissioner makes the report and the recommendations, then if the accused files no exceptions to it, the court has reason to believe that he is satisfied with the recommendation, just the same as he would in any case. And the commissioner has had the opportunity to see the accused and the witnesses and makes his report accordingly.

Mr. LINTHICUM. He never sees the witnesses personally.

Mr. CHRISTOPHERSON. Yes; the commissioner does, and if the accused makes no exceptions to his report and recommendations he is satisfied with it.

Mr. WHITTINGTON. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. WHITTINGTON. I was just wondering if it is not desirable to enlarge or change the qualifications of commissioners when this additional authority is given, so as to provide for a higher and better qualified class of commissioners to deal with trials?

Mr. CHRISTOPHERSON. That is a matter than can and should be taken up in separate legislation. Doubtless this bill will lead to stated qualifications for these officers.

Mr. WHITTINGTON. Ought it not to be included in this legislation?

Mr. CHRISTOPHERSON. I think it should be taken up as a separate measure and not included in this bill.

Mr. WHITTINGTON. One further question: Ought not the commissioners to receive salaries instead of fees, so that their findings would not be affected by the verdict of guilty? I believe and understand the bill provides that commissioners be allowed their fees, regardless of verdicts, and that the fees be paid out of the Federal Treasury.

Mr. CHRISTOPHERSON. There are bills now pending providing for fees for commissioners, but we have deferred consideration of those until the result of this legislation is concluded, for with these added duties will make a difference as to the proper fees.

Mr. WHITTINGTON. Should not the testimony be taken by stenographers, so that the testimony may be submitted to the judge?

Mr. CHRISTOPHERSON. That can be taken care of by means of regulations which the bill authorizes the circuit judges to promulgate.

Mr. WHITTINGTON. The stenographer's transcripts would give a better idea of the facts.

Mr. CHRISTOPHERSON. To-day they do not provide for stenographers in the Federal courts. A man may be tried for any offense, and if he wants the record he must provide for a stenographer to take the evidence.

Mr. WHITTINGTON. Justice would be promoted, would it not, by making provision for stenographers, both before commissioners and in Federal district courts?

Mr. CHRISTOPHERSON. Ultimately we may make provision for stenographic records for Federal courts, but I do not think the matter should be taken up here in this bill.

Mr. GLOVER. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. GLOVER. Answering the question propounded by the gentleman from New York [Mr. LAGUARDIA], you said the courts might act without reading the proceedings. On page 2, lines 11 and 12 of the bill, it is provided that a judge of the court, "on examination of the reports, may approve them and render judgment of conviction or acquittal as the case may be." Then, it seems, he must examine the report.

Mr. CHRISTOPHERSON. Yes; he will examine the reports but he need not read all the testimony. If no exception is taken to the report, the judge has reason to believe it is right and just, and he would proceed to carry out the recommendations of the commissioner.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. CELLER. I understand the gentleman to say that the bill does not provide exclusively for a hearing. It is optional whether the judge may or may not hear these cases in the first instance. You will find on page 1, line 5, of the bill, the language, "The accused shall plead to the complaint or information before the United States commissioner," and on line 9, of the same page, it is provided that "the commissioner shall transmit the complaint and warrant to the clerk of the district court," and on page 2, line 1, you have the words "shall be rendered and sentence imposed," and on page 2, line 4, you have the words "There shall be a hearing before the United States commissioner," and on line 5, you have the words "shall have the same powers," and so forth.

Mr. CHRISTOPHERSON. That is the wording of the bill. It was discussed here yesterday in connection with the passage of the other bill defining petty offenses. They may be prosecuted. There is nothing to prevent the district attorney from going before the grand jury in the first instance. If the proceedings are brought on complaint or information before a commissioner, then that would control.

Mr. HASTINGS. When brought before a commissioner?

Mr. CHRISTOPHERSON. Yes.

Mr. BACHMANN. Mr. Chairman, will the gentleman yield?

Mr. CHRISTOPHERSON. Yes.

Mr. BACHMANN. Under this bill the power of the United States commissioners are enlarged?

Mr. CHRISTOPHERSON. Yes; that is correct.

Mr. BACHMANN. Will you tell the House how many United States commissioners this power will be conferred upon? Has the gentleman any idea of the number?

Mr. CHRISTOPHERSON. No; I do not know offhand how many commissioners we have.

Mr. BACHMANN. I will ask the gentleman from South Dakota how many commissioners there are in his State?

Mr. CHRISTOPHERSON. I can only recall three at this moment.

Mr. BACHMANN. I will say to the gentleman that there are 25 in his State. You also have 3,206 in the entire United States, and in some of the States there are now as many as 142 commissioners. In the big State of New York, with its big population, however, they have only three.

Mr. CHRISTOPHERSON. That is all the more reason why we should extend the jurisdiction to make use of the many commissioners you say we have.

Mr. MICHENER. Mr. Chairman, will the gentleman yield.

Mr. CHRISTOPHERSON. Yes.

Mr. MICHENER. As a matter of fact, in the case of Montana the commissioners are of the highest type, and they are highly reputable lawyers in particular towns.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. GRAHAM. Mr. Chairman, I yield to the gentleman five minutes more.

Mr. MICHENER. The commissioners are selected for the convenience of the public. When a man is arrested under the Federal law, if he is taken before a commissioner to-day and they have a hearing and he is bound over, then he will not be 500 miles away from the court?

Mr. CHRISTOPHERSON. Yes; very true.

Mr. MICHENER. Something has been said about the authority of these commissioners. I know of cases where the judges prevail upon the highest-priced commissioners to act as such.

Mr. CHRISTOPHERSON. That is true in my State.

Mr. JOHNSON of South Dakota. Mr. Chairman, will my colleague yield?

Mr. CHRISTOPHERSON. Yes.

Mr. JOHNSON of South Dakota. I happen to be in sympathy with the desire to hasten this legal procedure. There are 25 commissioners in our own State. They are the personal selections of the Federal judges.

Mr. CHRISTOPHERSON. Yes; they are.

Mr. JOHNSON of South Dakota. Is any investigation made of them by the Department of Justice or by any authority except the judge?

Mr. CHRISTOPHERSON. I know the judge makes the appointments. Whether they are passed upon by the Department of Justice I can not say at this time.

Mr. JOHNSON of South Dakota. Is there any way by which they can be removed except by the judge?

Mr. CHRISTOPHERSON. I should assume that the Department of Justice could recommend their removal for cause, and the judge would naturally cooperate with the department.

Mr. JOHNSON of South Dakota. Has the committee considered, if this legislation is passed, any legislation that would further safeguard these commissioners, to make it certain that they are not just the personal appointees of the judge, and there should be some redress if inefficient commissioners were appointed?

Mr. CHRISTOPHERSON. That has been suggested, but no legislation that I know of has yet been drafted. However, if this bill becomes law, doubtless the qualification of commissioners will be fixed and method of removal for cause provided.

Mr. JOHNSON of South Dakota. If that were done, that would change my vote on this bill.

Mr. THATCHER. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. THATCHER. The gentleman spoke at the outset about similar powers having been conferred on United States commissioners by the acts of 1916 and 1920.

Mr. CHRISTOPHERSON. Yes.

Mr. THATCHER. Will the gentleman briefly indicate the character of powers conferred, and whether or not those acts have ever been upheld?

Mr. CHRISTOPHERSON. One of them was with relation to violations upon a highway in the District of Columbia. The others concerned various parks in California and Wyoming, where authority to try certain cases was conferred upon commissioners, and, as far as I know, the acts have never been questioned, and the commissioners have and are exercising the jurisdiction conferred. They are found in title 16, beginning with paragraphs 66 of the United States Code.

Mr. SPARKS. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. SPARKS. If this bill should be passed, would it not constitute an implied direction to the District judges to select commissioners who would be capable of meeting this added responsibility?

Mr. CHRISTOPHERSON. Doubtless it would. And in time legislation will be passed to meet that.

Mr. BACHMANN. Will the gentleman yield?

Mr. CHRISTOPHERSON. I will.

Mr. BACHMANN. On this matter of commissioners I would like to clear up something so that it will be understood. After this bill is passed, the court can appoint as many additional commissioners as he may need for the purpose of taking care of the work which comes before United States commissioners?

Mr. CHRISTOPHERSON. Yes; it is now provided by law. This bill does not change the number or method of appointing.

The CHAIRMAN. The time of the gentleman from South Dakota [Mr. CHRISTOPHERSON] has expired.

Mr. GRAHAM. I yield five additional minutes to the gentleman from South Dakota.

Mr. BACHMANN. The commissioner is appointed for a 4-year term?

Mr. CHRISTOPHERSON. Yes.

Mr. BACHMANN. And he is subject to removal by the district court alone, but his appointment must be approved by the Attorney General?

Mr. CHRISTOPHERSON. I believe that is true.

Mr. BACHMANN. The judge can remove him at any time during that term of office, and there are no qualifications for the appointment of the commissioner?

Mr. CHRISTOPHERSON. That is correct.

Mr. BACHMANN. He does not have to be a lawyer; he may be a layman?

Mr. CHRISTOPHERSON. That is correct.

Mr. BACHMANN. In the State of Delaware there is only one commissioner, and all cases brought before a commissioner will have to go before that commissioner's office unless the court will appoint additional commissioners throughout the State. Is that not correct?

Mr. CHRISTOPHERSON. Yes; certainly; but doubtless if this bill becomes a law the court will appoint such additional commissioners as may be needed.

Mr. LETTS. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. LETTS. Has the committee considered the necessity of further compensation for the additional service performed?

Mr. CHRISTOPHERSON. Yes. There is a bill pending now, but the committee did not see the necessity of taking it up until it was determined what would be done with this bill, for the enactment of this bill will have some bearing on the question of their fees.

Mr. HUDSON. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. HUDSON. The question I was going to ask has been partially cleared up by the gentleman from South Dakota [Mr. JOHNSON]; that is, that the appointment of the commissioner must be approved by the Attorney General.

Mr. CHRISTOPHERSON. I believe that is correct.

And now I just want to say in conclusion that it seems to me this bill safeguards the right of the accused throughout. If the accused is dissatisfied with the commissioner's findings, he may file his exceptions; and if the court does not approve of the recommendations or changes them in any way, he must have notice. He must have notice of the commissioner's recommendations, and if he is dissatisfied he may except thereto and demand a jury trial, which will be granted him in the court. It seems to me his rights are abundantly protected throughout the entire proceedings.

Mr. BARBOUR. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. BARBOUR. His right to a jury trial is in the higher court?

Mr. CHRISTOPHERSON. Yes; in the court.

Mr. BARBOUR. And not before a commissioner?

Mr. CHRISTOPHERSON. Not before a commissioner. Bear in mind, we are not making a court out of these commissioners. The commissioners are the arm of the court, to hear and ascertain the facts and report them to the court.

Mr. BARBOUR. Just in the nature of a committing magistrate?

Mr. CHRISTOPHERSON. He would still be a committing magistrate, but in this proceeding he would act as an arm of the court, to ascertain the facts, just as a master in chancery does in civil matters.

Mr. BARBOUR. But if a defendant pleads not guilty and desires a jury trial, he gets that in the higher court by taking exception to the findings of the commissioner?

Mr. CHRISTOPHERSON. Exactly. And it is very easy and simple to do it.

Mr. McREYNOLDS. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. McREYNOLDS. Where a defendant does not plead guilty before a justice of the peace and a trial is had, does the gentleman not think the Government is at a disadvantage when there is no one there to represent the Government?

Mr. CHRISTOPHERSON. I assume there will be some one in cases of importance. Men do not find their way into court without somebody bringing them in. Either a deputy district attorney or some one who initiates the proceedings is usually present to represent the Government and present the evidence.

Mr. McREYNOLDS. They are there, but what lawyer is there.

Mr. CHRISTOPHERSON. There will be some one there to look after it.

Mr. McREYNOLDS. That is merely a guess.

Mr. CHRISTOPHERSON. No; not a guess but my conclusion, based upon my knowledge of the usual procedure in such matters.

Mr. McREYNOLDS. There are not enough district attorneys to appear before every United States commissioner.

Mr. CHRISTOPHERSON. That would be a far-fetched conclusion, to assume that proceedings would be initiated before every commissioner.

Mr. BACHMANN. Will the gentleman yield for me to make a correction about the appointment of commissioners?

Mr. CHRISTOPHERSON. I yield.

Mr. BACHMANN. The provisions of the act is that a judge can appoint as many United States commissioners as he desires. He does not need the approval of the Attorney General.

Mr. CHRISTOPHERSON. But I believe he reports to the Department of Justice his appointments.

Mr. BACHMANN. But if a man who has been appointed United States commissioner is serving as a deputy clerk of a United States court, then he must have the approval of the Attorney General.

Mr. CHRISTOPHERSON. Yes; exactly. The gentleman is right.

Mr. LETTS. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. LETTS. Has the committee estimated what the probable cost would be to compensate the commissioners for the additional service that will be required?

Mr. CHRISTOPHERSON. The bill provides a fee for it. Whether that is proper compensation is something we have not gone into fully.

Mr. LETTS. It has been many years since the fee bill for commissioners has been revamped.

Mr. CHRISTOPHERSON. I realize that; and if this bill is passed, naturally it will be followed by consideration of the question of fees, but the matter of fees is not all-important at this time. The question is one of jurisdiction.

Mr. LETTS. But this is something that will follow.

Mr. CHRISTOPHERSON. No doubt it will follow; but let us take care of one thing at a time?

Mr. SABATH. Will the gentleman yield?

Mr. CHRISTOPHERSON. I yield.

Mr. SABATH. Does the gentleman not think there is a great deal of abuse, due to the fee system, and that it should be abolished?

Mr. CHRISTOPHERSON. Yes; probably so, and doubtless the question of fees should have consideration.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. MONTAGUE. Mr. Chairman, I yield 15 minutes to the gentleman from West Virginia [Mr. BACHMANN].

Mr. LETTS. Will the gentleman yield?

Mr. BACHMANN. I will yield, but I would like to explain this bill before there are any more interruptions.

Mr. LETTS. I have been trying to get a little information as to what it will cost to put this work on the commissioners.

Mr. BACHMANN. The cost has never been discussed in our committee and I doubt if anybody knows what the cost is going to be.

Mr. SABATH. It will be enough.

Mr. BACHMANN. Gentlemen of the committee, this is one of the most important pieces of legislation pertaining to law enforcement that the Congress is going to be called upon to enact. You have here a bill highly technical, a bill that almost requires the legal knowledge of an attorney to understand it, and unless you will apply to your own minds the practical operation of this bill it is impossible to understand it.

There are four provisions under the bill, and if you are not interested you should be, if you are going to vote in favor of the bill you ought to know what you are voting for.

I want to say to the Members of the House that I am not one who is going to come here and take the recommendation of a commission or anybody else simply to make a gesture in law enforcement. [Applause.] If we are going to pass a law, let us pass a law that will be workable and really accomplish something. I will support any law that will make law enforcement better, and I do not want to be misunderstood in my position.

There are four provisions under this bill. When a man is arrested for a petty offense, he is taken before a United States commissioner. The bill provides that he shall plead before that commissioner. He either pleads guilty or he pleads not guilty. Under the first provision, if he pleads guilty the commissioner sends it on to the district clerk, the clerk sends it to the court, and the court imposes sentence, but the court never sees the man.

Mr. HAMMER. Does the gentleman think a commissioner can take a plea of guilty?

Mr. BACHMANN. He makes the plea of guilty before the commissioner. He pleads before the commissioner, but the commissioner can not impose sentence. The accused has to be sentenced by the judge. The warrant and the complaint and the plea of guilty that the accused tendered is sent to the court. In some States there are 4, 5, or 6 terms of court, all held at different places. The court may be 100 miles away from where this commissioner has this case. The Federal judge never sees the accused. After the accused is sentenced and serves his sentence and is released, he goes into another commissioner's jurisdiction and under a different name he violates the same law. He is taken before another commissioner and he pleads guilty. That commissioner sentences him and he follows the same procedure and sends it to the same judge. The judge only sees the warrant and complaint and the name. He does not know this man is a second offender, and the judge gives him the same sentence, and he has never seen the accused. The accused, under this bill, may violate the same law two or three times and be sentenced by the same judge for a petty offense two or three different times and the judge and the district attorney do not know it.

Another provision in the bill is that if the accused pleads not guilty the commissioner gives him a hearing. The commissioner listens to the testimony both for the Government and for the defendant. Then what does the commissioner do? He writes out that evidence. If there is any provision made for a court stenographer, I do not know where it is, because I am unable to find where a commissioner or a district court has the right to furnish a court stenographer in a commissioner's court. There are over 100 United States commissioners within the jurisdiction of some courts. But the commissioner takes the evidence and the commissioner writes it out. He sends the evidence and his recommendation to the judge. His recommendation is that the man be found guilty and sentenced to 90 days in jail. After that happens the matter rests in the clerk's office for eight days. Nothing can be done for eight days. It has got to remain there because the defendant has eight days within which to file an exception and demand a trial by jury in the Federal court. After the eight days' period expires, if the accused has not filed his exception and if the accused has not demanded a trial by jury the case goes to the court and the court looks at the commissioner's recommendation, and if he agrees with the sentence of 90 days that the commissioner has recommended he notifies the defendant and the defendant is committed—through some process that is not stated in this bill—to jail. Under another provision of the bill the accused pleads not guilty and interposes his objection and demands a trial by jury before the period of eight days expires. The case is then docketed in the district court and the accused automatically gets his trial by jury when the next term of court is held.

Another provision in the bill is this: When this recommendation comes to the Federal judge and the Federal judge does not see fit to accept the recommendation of the United States commissioner he makes a finding of his own. The judge says, "Ninety days will not be sufficient punishment. I am going to give this man six months." Now, in this case if the judge disapproves the commissioner's recommendation the accused has five days, after he receives notice of some kind and through some source that the judge has not approved the recommendation of the commissioner, to make his exception and demand his right of trial by jury. If the accused makes his demand in five days the proceeding stops and he gets his trial by jury.

I want to point out another serious objection. I would like to support this bill because any bill that will relieve congestion in some of the courts ought to be passed by Congress if it is practical and susceptible of practical operation, and so long as it is not going to take away from any man any of his constitutional rights. But I want to say to the Members of the House that through this bill you are striking at the very heart of the probation system which Congress had been trying to perfect. Remember that under this proceeding the judge of

the Federal court, unless a man demands a trial by jury, never sees the accused.

We have been trying to make our probation system more effective. We had a bill introduced at this session of Congress to make the system more effective. In this day and age, when we are coping with the crime problem in this country, it has been the thought of many that we ought to encourage the application of our probation system to first offenders.

Mr. CHRISTOPHERSON and Mr. STOBBS rose.

Mr. BACHMANN. Let me finish my statement, and then I will yield to the gentlemen.

We ought to perfect our probation system and make it more effective. How are you going to work under our probation system with this bill? Any Member of the House who has been in court or on the bench knows that to make the probation system work effectively you must have the accused in court, have him before the judge when he is sentenced, so the judge can look him in the eye, so the judge may ask the accused how he got into this trouble and say to him, "What are you going to do if I give you a chance?" He must be in court so the judge can exact some promise from him as to his future conduct. Then the judge knows whether the man is a fit subject for probation; and if he is, the judge knows how to act judicially. Under this bill, if the court wanted to put the accused on probation he would either have to have the accused brought before him or have the United States commissioner parole him. The court would have to have the accused come to the place he was holding court or wait until the term of court is held in that particular locality. This would delay rather than expedite the disposition of the case. If the court would order the United States commissioner to parole the accused, we would be indirectly giving the power through the court order to a number of United States commissioners, many of whom are not attorneys and who are not familiar with the parole system. We will be striking at the very heart of the system.

Mr. MICHENER. The gentleman does not mean that seriously.

Mr. CHRISTOPHERSON. The gentleman does not mean parole, the gentleman means probation.

Mr. BACHMANN. As I understand it from my experience as a prosecuting attorney, the court could parole a man if he did not want to sentence him.

Mr. STOBBS. That is probation.

Mr. LAGUARDIA. He suspends sentence and puts him on probation.

Mr. CHRISTOPHERSON. I would like to ask the gentleman this question: Would not that be one of the very things the commissioner would make his recommendation upon, provided these minor offenses came under his jurisdiction?

Mr. BACHMANN. But who is going to put the parole into effect? The accused should be personally present before the court in order to make the parole effective. Under this bill the judge never sees the accused unless he demands a trial by jury.

Mr. CHRISTOPHERSON. In other words, the gentleman wants to keep the judges grinding away on these little things.

Mr. BACHMANN. I do not. I am only calling the attention of the House to the fact that this bill strikes at the heart of the probation system, so that the Members may be advised of it.

Mr. CHRISTOPHERSON. With all due deference, I can not agree with the gentleman that it strikes at that system at all.

Mr. SABATH. Sending a young man or young woman to jail for six months is not a little thing.

Mr. MICHENER. Section 5 of the bill provides:

> The circuit judges in each circuit shall have power to make rules for the details of practice suitable to carry out the several provisions of this act.

Does the gentleman seriously contend here that where a man pleads guilty before a commissioner, and the report goes up to the judge, any judge would probate the man or would think of probating the man without sending for him and talking the matter over with him just as they do to-day?

Mr. BACHMANN. I do not think so, and if the gentleman will just apply his legal knowledge to the practical operation of a Federal court, where the court sits at different places, sometimes a hundred miles away, and only gets to certain localities perhaps twice a year, are you going to have the defendant pay railroad expenses to go to see the judge 100 miles away so he can parole him, or are you going to have him wait six months until the court meets in that particular locality?

Mr. MICHENER. No judge is going to probate a man until the probation officer reports.

Mr. BACHMANN. The parole officer many times does not know a thing about the accused until the court first paroles him. It then goes to the probation officer.

Mr. MICHENER. The gentleman wants to be correct there, I know. The very purpose of the probation system——

Mr. SABATH. Do not let the gentlemen take up all your time. The gentleman is making a very enlightening speech to the membership here, and the gentleman should not yield any more.

Mr. BACHMANN. I do not want to make any misstatement.

Mr. STOBBS. Will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. STOBBS. The gentleman has been a prosecuting attorney and the gentleman knows very well that the court never probates any defendant who comes before him until the probation officer has looked into the man's record and ascertained all the facts, and this will be done under the commissioner system just as it is being done at the present time.

Mr. BACHMANN. I would say to the gentleman from Massachusetts that if we are going to work under that kind of arrangement under our present judicial procedure, with the district court holding terms in different places in a State, and wait until the parole officer who lives 100 miles away can be sent out to where John Smith lives and investigate him before the court paroles him, then this bill will not relieve congestion, and that is the only purpose of the bill.

Mr. LAGUARDIA. That is the answer.

Mr. ARNOLD. Will the gentleman yield?

Mr. BACHMANN. I yield to the gentleman.

Mr. ARNOLD. Is there any provision here whereby a defendant is allowed liberty on bail during this 8-day period?

Mr. BACHMANN. There is no mention of bail, but we have a saving clause at the end of the bill, we are told, whereby the circuit judges may prescribe rules and regulations for the procedure that is to be followed.

Mr. LAGUARDIA. Do not the gentleman from Michigan [Mr. MICHENER] and the gentleman from Massachusetts [Mr. STOBBS] admit the weakness of the bill when they point out what the judge would do? If he does that, there is no reason for the bill, because there is no time saved and no congestion relieved.

Mr. BACHMANN. The main purpose of this bill is to relieve congestion. That is all the bill is for. If you are going to relieve congestion you ought to have some method provided that will relieve the congestion.

Look at the report made by the Conference of Senior Circuit Judges in the Attorney General's report of 1929 and look at the speeches I made on March 7 and April 22, all relating to congestion in the Federal courts, and you will see where the congestion really exists. Let me call the attention of the House to some figures to show you something about this congestion.

In the State of Wyoming there were an average of 32 criminal cases commenced in the Federal court for the last four years. In the State of Rhode Island 84, Delaware 89, North Dakota 132, Connecticut 133, and Utah 140. Surely it can not be seriously contended that the Federal courts in these States are congested with criminal cases. Yet, if this bill is enacted, the Federal courts in these States as well as many others will be required to follow the new procedure. I am of the opinion that a judge who only has 32 or 84 criminal cases in his court during the whole year does not need the assistance of his United States commissioners to dispose of them. Any judge ought to be able to take care of five or six hundred or a thousand criminal cases in a year.

The CHAIRMAN. The time of the gentleman from West Virginia has expired.

Mr. GRAHAM. Mr. Chairman, I yield the gentleman five minutes more.

Mr. BACHMANN. The Attorney General's reports for the last four years show that 92 per cent of all defendants charged with violations of liquor laws plead guilty to begin with. That is the record for the last four years.

Mr. MOORE of Virginia. Can the gentleman tell us in what States the congestion lies?

Mr. BACHMANN. After a survey, in which I went into the matter thoroughly, I found that some of the district courts are congested—and that does not mean that every district court in the country is congested. The only places where I found any serious congestion were in the States of New York, Washington, Georgia, Louisiana, Texas, Michigan, Missouri, California, Oklahoma, Kentucky, West Virginia, and the District of Columbia. Outside of those States there is no congestion.

The right of trial by jury is involved in this bill. You have heard a lot about it—some reasons have been stated properly and some have not been stated properly. I want to call the attention of the House to the fact that when a man is charged with an offense under the law and he goes into the Federal

court under our procedure and pleads not guilty he automatically gets a trial by jury on his plea of not guilty.

Under this bill we are changing the Federal practice so that the accused must take some affirmative action by filing an exception and making a demand for a jury trial in order to get a trial by jury. Bear in mind that this bill destroys the procedure that now exists and a plea of not guilty does not automatically bring to the accused his trial by jury. The accused must take some affirmative action to get it.

Under the bill the right of trial by jury depends on making the demand. It depends on a notice. What kind of a notice I do not know, for the bill does not say. Before the accused can demand a jury trial he must have notice from the commissioner that the commissioner is going to recommend he be found guilty.

How is the notice going to be sent? I do not know. The bill says the United States commissioner must give written notice to the accused of his recommendation. It does not provide how the accused is notified. It has to be in writing. He must give it to him personally or have it served by a United States marshal, or send it through the United States mail. Whenever the constitutional right of trial by jury is dependent upon the action of the United States commissioner that is not uniform in practice the Members of the House ought to stop and consider very carefully what this bill contemplates.

Mr. MICHENER. Will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. MICHENER. The bill provides that the circuit judges in each circuit shall have power to make rules for the details of practice suitable to carry out the several provisions of this act.

Mr. BACHMANN. Oh, yes; I know; the circuit court of appeals may make rules relative to this notice, but the accused should have personal notice, especially since his right to a trial by jury depends upon it. If the written notice is not handed to the accused in person, or sent through the mail, it should be served upon him personally. There is no other way.

Mr. MOORE of Ohio. Will the gentleman state where he finds the provision that a man has a right of trial by jury for a petty offense?

Mr. BACHMANN. Any man who pleads not guilty, under the Federal practice as it is now followed throughout the country, gets a trial by jury when he pleads not guilty.

Mr. JONAS of North Carolina. Will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. JONAS of North Carolina. Did not the gentleman vote for a bill on yesterday waiving the trial by jury?

Mr. BACHMANN. Yes; because the defendant under that bill, if he so desired, could waive his trial by jury, but this is a different proposition.

Mr. CHRISTOPHERSON. Will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. CHRISTOPHERSON. How about trial in the inferior courts, in the State courts?

Mr. BACHMANN. That is under the constitution of the State and the State law, and there the same judge does not pass upon the same case twice, but here you are working under the Federal procedure. Under the State practice the case goes to court from the justice of the peace on appeal. Under this bill there is no appeal from the commissioner.

Now, I have an amendment that I think will cure a lot of these defects. If adopted, I will vote for the bill.

If you want to make this bill susceptible of practical operation and really accomplish something, vote for the amendment I will propose, so that the defendant when taken before the commissioner may do one of two things—either plead to the complaint and warrant or permit him to waive the hearing before the commissioner. There is nothing gained by compelling the accused to have a hearing before a commissioner when he expects to file his exception and demand a trial by jury in the district court. Let him waive his hearing and get his trial in court. Why make the commissioner hear the evidence in a case when that man expects to demand a trial by jury. [Applause.]

Mr. DENISON. Mr. Chairman, will the gentleman from Virginia yield to me for a question?

Mr. MONTAGUE. Does the gentleman wish to ask me a question relative to the bill?

Mr. DENISON. Yes.

Mr. MONTAGUE. I can not yield now. Mr. Chairman, I yield 15 minutes to the gentleman from South Carolina [Mr. DOMINICK].

Mr. DOMINICK. Mr. Chairman, ladies and gentlemen of the committee, this bill is before the House as a part of a program which has been recommended by the Law Enforcement Commission, and has gained the approval of the Attorney General, and after many, many sessions of the Judiciary Committee has been brought upon the floor of this House as the last bill in that program. I shall not attempt to discuss the bill from a constitutional standpoint this afternoon, because one of my colleagues on the committee who will follow me will discuss that feature of it. I propose to discuss it in the limited time which I have from a practical standpoint, not only from the practical standpoint of a lawyer but from the standpoint of a lawyer who has had practice, as many of us have, as country lawyers, before all kinds of courts, from the justice of the peace court on up to the Supreme Court of the United States, and who knows something about the practical operation of court procedure. I have the highest respect and regard for the legal ability of those men who compose that Law Enforcement Commission. I have the highest regard and respect for the legal ability of the Attorney General of the United States, but that same Attorney General when he was before the Committee on the Judiciary on another matter and was asked what suggestions, if any, he had to make in regard to the law-enforcement program, replied in effect, "I have nothing but what has been put before you by the Enforcement Commission, and, as a matter of fact, you gentlemen know as much about the proposition as I do." And I think the Attorney General was entirely correct when he made that statement.

Mr. Chairman, it is theirs to make recommendations, but the duty and responsibility are upon us as to whether or not those recommendations will be carried and written into legislation. What do we find in so far as this bill is concerned? It comes before us on a proposition that it will tend to relieve the congestion in the courts, a proposition in which we are all interested. My contention is that it will not only not tend to relieve the congestion in the courts, but, on the other hand, with this complicated procedure it will tend to increase congestion and tend to involve and devolve additional duties on our district judges? What do we find now as to practical operation? A man is arrested charged with a crime. He is carried to the United States court and his case is handed before the grand jury by the United States attorney; and just here may I digress for a moment and say that I do not follow all this hue and cry about information and indictment. The question as to information or indictment by the grand jury does not, in my opinion and in my observation, tend to any congestion in the courts. We all know that we have courts lasting 3 and 4 and 5 and 6 weeks, and that we have a grand jury there which handles all of the cases in 3 or 4 days, and is then discharged and goes home, and that then the court is charged with the disposition of those cases. The defendant goes before the court and is indicted by the grand jury under our present practice. He pleads guilty and the judge makes some inquiries and sentences him, and that is the end of it. If he pleads not guilty, what do we find? He is brought up before the court and the jury is empaneled, witnesses are sworn, and he is summarily tried and convicted or acquitted, as the case may be, and that is the end of it. At the most, as is shown by the minority report, there are only three processes in this procedure, and what do we find here? Look at the minority report, on page 3, and what do we find under this bill—and I do not agree with my friend from South Dakota [Mr. CHRISTOPHERSON] that it is permissive. The bill is operative and it is mandatory in every district, whether congested or not, for all petty offenses. The bill provides that. Under the bill what do we find? You have to go through 12 distinct processes in order to bring this trial to a conclusion.

A complaint is filed; and a plea entered; and there is a hearing before the commissioner; then there is the report and recommendation made by the commissioner; the defendant is informed of the commissioner's recommendation; the defendant has eight days in which to file exceptions; case reviewed and examined by the court; court makes findings and approves or disapproves of commissioner's recommendation; defendant informed of court's finding and sentence to be imposed; defendant has five days in which to take exceptions from court's findings and demand trial by a jury; defendant demands trial by jury which nullifies all the proceedings thereto had; and then we get to a trial in the district court. That is what you have to go through with, and yet it is suggested here that that would relieve the congestion because the district judge would take the recommendation of the commissioner, and we would then have rubber-stamp justice. The judge is supposed to swallow hook, line, and sinker every recommendation of the United States commissioner. Oh, they say, the judge can look into these matters. He is supposed to look into them, but how is he going to look into them? Under this bill, if a man pleads guilty, all the United States commissioner has to do is to send up the warrant and the plea and his recommendation. This does not require him to send up any testimony. It does not require him to say what kind of a man the defendant is. He just has to send that up. But they say,

oh, we have section 5 in the bill, which cures everything, because the senior circuit judge has the power under it to make rules and regulations. As I have just demonstrated, you have 12 proceedings in order to finish a case now under this bill, as against three under the present practice, and this provision in the bill giving the circuit judges the right to make proceeding rules and regulations will make another baker's dozen to add to the one that we already have. If you want to speed up justice, if you want to relieve congestion in the courts, have nothing whatsoever to do with this bill. Take the case of a man who is charged with a petty offense. Suppose it is just before court time, with the various notices would have to be given. That man can very easily get a continuance either to the next term of court or to two or three terms afterwards.

What can we do now? We find the practice in some places where a violator is caught he is tried, right then and there, without 8 or 10 days' notice being given. I can not see how a man who is a "dry" can vote for this bill, Mr. Chairman, and vote on the matters that we voted on yesterday, and which we passed. I can not see how he can justify himself as a "dry." Those bills, you might say, are "wet" bills when you come down to analyze them, and were it not for the label they had on them when they came before the committee and before this House, I doubt if the propositions contained in them would have received 75 votes on the floor of the House.

Suppose a man pleads guilty under this bill. He first goes before a commissioner, and then they have a trial. They do not call it "a trial." Why? Because they can not clothe and do not want to clothe, under the Constitution, a United States commissioner with judicial power. But at the same time he goes through the formality of a trial. He has the Government agents there who brought the case, and they are sworn, and after the trial the commissioner makes his recommendation to the district attorney, and then the defendant can make his exceptions, and if the exceptions are not sustained by the district judge, he can make his demand for a trial by jury; and then he must be tried by the United States district court, and you have to go over the hearing again.

You bring the agent, instead of allowing him to go out through the country and keep down the unlawful violations under the prohibition act—he is dragged around throughout his district and brought before the United States commissioners to testify in what you might call a preliminary hearing.

Those are the facts. That is the bill, and there is nothing else to it.

Mr. JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. DOMINICK. Yes.

Mr. JOHNSON of Texas. Section 4 provides for a fee system. Does not the gentleman think that is a very bad thing to do?

Mr. DOMINICK. I do not think there is any doubt about that.

Now, gentlemen, in conclusion, those are my views on this matter. We have been discussing these matters practically ever since I have been on the Committee on the Judiciary, trying to find some way to set up inferior courts by which these matters can be disposed of in a summary manner, just as we dispose of petty cases in our State by justices of the peace and magistrates' courts. The committee has not been able to devise a system by which this can be done without bringing in additional judges and having them appointed for life. [Applause.]

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. MONTAGUE. Mr. Chairman, I yield 20 minutes to the gentleman from Tennessee [Mr. BROWNING].

The CHAIRMAN. The gentleman from Tennessee is recognized for 20 minutes.

Mr. BROWNING. Mr. Chairman and ladies and gentlemen of the committee, as a member of the Committee on the Judiciary, professing to be a lawyer, I can not support this bill. It would be my natural tendency to go along with any program which I thought would expedite the enforcement of the prohibition law; but on the contrary, I would not concede what I consider to be the essential liberties of the people for any temporary expediency, and further than that, I would not subscribe to any bill that in my judgment would hinder rather than help the enforcement of the prohibition law.

I believe this measure does both. I believe it destroys the essence of liberty and would hinder the enforcement of the prohibition law.

The plan reported by the Crime Commission has had for its object the relief of the Federal courts from congestion, and I think it can not be disputed that the plan sought by the commission was one that would relieve small offenses from grand jury action and from trial by jury, and there is no way for us to get away from it. On page 18, I believe it is, of the report, they said that all other plans suggested would leave the treatment of these, as they call them, minor cases, to grand jury action and trial by jury, so that they did not answer the purpose. Unless they could find something to relieve from indictments for minor offenses and trial by jury for them they would not accept it, and therefore they accepted this plan.

I do not care what any gentleman may argue on this floor, the purpose of this bill is to abridge and disparage the right of trial by jury in criminal cases. [Applause.]

Now, look at the organization that is provided in the bill. It is proposed that if the district attorney chooses he may take the defendant before a United States commissioner. The bill provides that the commissioner is entitled to take a plea from the defendant, and the defendant must plead. Although it is said the commissioner is not a court, yet a defendant is required to plead before an individual who is not a court. If the defendant's plea is guilty, that is all there is to the hearing. Then the commissioner shall transmit the complaint and warrant to the clerk of the district court, with a report of the plea, and thereupon a judgment of conviction shall be rendered and sentence imposed by the judge of the court. The commissioner does not even recommend when there is a plea of guilty. He simply transmits the warrant and complaint and plea, and that is all the court has to act upon.

Let me argue in all earnestness, suppose you were on the bench with the responsibility of sentencing a man for a criminal charge, and you have in front of you a warrant, a complaint, and a plea of guilty, without any opinion from anyone who has seen the defendant or knows the defendant what condition are you in to impose sentence?

Mr. MICHENER. Will the gentleman yield?

Mr. BROWNING. I yield. I shall be glad to yield to the gentleman if he can shed any light upon that feature.

Mr. MICHENER. This bill is for the purpose of meeting conditions which exist to-day. Will the gentleman differentiate the knowledge that a court has under this bill and the condition to-day where 150 or 200 men are lined up in front of a judge of the court, the cafeteria procedure with which we are all familiar, and his name is called, the judge knows nothing about the man, never has seen or heard of him before, and he pronounces sentence just as fast as he can?

Mr. BROWNING. I will say to the gentleman that I do not know of any benighted section of this Nation where that is done. [Applause.]

Furthermore, if he is a court, and has in front of him a man who is charged with an offense, he can ask him what he has done. He has the officer there who made the arrest, and who made the charge, to ask him what occurred.

Mr. BACHMANN. Will the gentleman yield?

Mr. BROWNING. I yield.

Mr. BACHMANN. And the district attorney will also be there, who made the investigation, and who can make a recommendation to the court.

Mr. BROWNING. Of course. Gentlemen, in my opinion, it is absurd to think about a condition of that kind.

Mr. JONAS of North Carolina. Will the gentleman yield?

Mr. BROWNING. I yield.

Mr. JONAS of North Carolina. If the judges are as good as you and I think they are, and there is no such benighted condition as the gentleman from Michigan suggests, does the gentleman not think those same good judges who pronounce sentence can make some inquiry before they pronounce sentence?

Mr. BROWNING. But they are directed to pronounce sentence. The laws says "they shall render judgment then and there." They have no discretion in the matter.

Mr. JONAS of North Carolina. But that does not preclude a judge from getting information any way he can, does it?

Mr. BROWNING. I am just stating what the bill provides. In my judgment, it can not be justified.

Mr. CRAIL. Will the gentleman yield?

Mr. BROWNING. I yield.

Mr. CRAIL. Is there anything in this bill which precludes the district attorney from making recommendations?

Mr. BROWNING. Nothing at all; but there is nothing to preclude turning every one of them loose.

Mr. McREYNOLDS. Will the gentleman yield?

Mr. BROWNING. I yield.

Mr. McREYNOLDS. Has the judge any evidence before him to show whether he shall inflict the minimum or maximum punishment?

Mr. BROWNING. None at all. He has not even the opinion of the commissioner. When a man pleads guilty there is not even an opinion of the commissioner before the judge.

Mr. LINTHICUM. Will the gentleman yield?

Mr. BROWNING. I yield.

Mr. LINTHICUM. The gentleman just said that bringing the men before the court is what causes the congestion, but the real fact is that the men having to appear before the grand jury and having the right of trial by jury is what the commission thinks causes the congestion.

Mr. BROWNING. Honestly, I think that is the thing they are driving at, to discourage jury trials, and I deplore any such attitude. Suppose a man pleads guilty, then, a commissioner is to try him. This is a legal subterfuge, where they are undertaking to get around the constitutional requirement that the man who tries a defendant shall be a court, and they admit that a commissioner is not a court. They are not only taking away from him the right of a trial by jury but also they are taking away the right to be tried by a court, and he is to be tried by proxy, by some man who does not have any semblance of a court except by appointment.

Mr. McREYNOLDS. What qualifications are necessary in our section of the country?

Mr. BROWNING. None at all. Originally the provision was that the court could appoint certain discreet persons, but when they rewrote that law they left out "discreet," and he does not even have to be discreet any more.

Mr. CELLER. Will the gentleman yield?

Mr. BROWNING. I yield.

Mr. CELLER. I just want to point out with reference to what the gentleman just said about "discreet" that the United States Code, title 28, does not lay down one qualification.

Mr. BROWNING. None at all.

Mr. O'CONNOR of New York. It does lay down one qualification. It says he must not be the janitor of the building.

Mr. BROWNING. Yes. They excluded the janitor of the Federal building.

Now, gentlemen, in all seriousness, the man must submit to a trial. You say he has preserved to him the right of trial by jury. Let us see if he has. He must submit to trial by a commissioner if he pleads not guilty. The commissioner recommends on that what his finding is, and it goes to the court. If he pleads not guilty and the commissioner finds him not guilty. when it gets to the court the court may set that aside and find him guilty and give notice of his finding. Although the court has found the condition to be that of guilt, yet, in the same court, under the same facts it is provided that the defendant can except to that finding and ask for a jury trial then and there, not in the first instance, as provided by the Constitution, as my good friend Judge TUCKER so ably pointed out, in citing the case of Callan against Wilson, that the constitutional right of trial by jury must be had the first time he is arraigned. This bill would provide that he be convicted and go before the court with a finding of conviction in his face, and then ask for a jury trial to determine whether he is guilty or not, after he has been found guilty.

Mr. LAGUARDIA. And, in all likelihood, tried before the judge who has already found him guilty?

Mr. BROWNING. Of course. If the judge should set aside the finding of not guilty and find him guilty, the man asking for a trial by jury would have to be tried in the same court.

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. MOORE of Virginia. I do not want to unduly interrupt the very able argument of my friend, but I would like to suggest that as I read the bill it is made mandatory on the person who is accused to plead either guilty or not guilty. Suppose he elects to stand mute? Then what happens?

Mr. BROWNING. Well, as my good friend from South Carolina [Mr. DOMINICK] just said, God only knows and He has not revealed it to us.

Mr. MOORE of Virginia. But there is no law that deals with that condition. It is a mandatory act in that respect and it is also mandatory in its application to every district in the country and not permissive.

Mr. BROWNING. That is true.

Mr. O'CONNOR of New York. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. O'CONNOR of New York. Some men want to be freed by a jury; they want their cases tried by a jury, but under this bill a man can never get a trial by jury unless he is convicted.

Mr. BROWNING. That is true.

Mr. O'CONNOR of New York. He has no opportunity to be acquitted by a jury.

Mr. BROWNING. There is no way for him to have his case reach a jury without a conviction staring him in the face. In my opinion it will bring about a situation where a defendant can multiply the delays in his case if he desires to do so.

Mr. MOORE of Ohio. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. MOORE of Ohio. If a defendant pleads guilty he would not want a jury trial, would he?

Mr. BROWNING. Well, I do not know about that. You might have a situation where a poor and ignorant man would come before a commissioner who does not know what his rights are and has no attorney, and the commissioner insisting on his pleading guilty, and he does plead guilty, not knowing what his rights are, whereas, in my humble judgment, in 9 cases out of 10 if such a man went before a court and offered to plead guilty the court would not accept that plea without that man having had the benefit of counsel, counsel to investigate his case and determine whether he knew what his rights were, and I think that under those circumstances in 9 cases out of 10 such a man's attorney would ask for a trial by jury, because a trial by jury in this country is the great equity end of our criminal practice.

Mr. MOORE of Ohio. Does the gentleman mean that the court in these petty offenses would appoint counsel to represent the defendants?

Mr. BROWNING. If they are any kind of a court they do; yes. I do not believe that any court which has the interest of the public as well as the defendant at heart would permit a man to plead guilty for an offense for which he can be given six months in jail and a $500 fine without giving him counsel and naming somebody. They do that in my part of the country.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. JOHNSON of Texas. Would not this be true, that these commissioners, having no qualifications and no legal requirements with reference to their confirmation, would be very much interested in having men plead not guilty when they are operating under a system by which they get a fee of $1 for every person who pleads guilty and a fee of $5 for every person who pleads not guilty, and would not that open up a very fertile field for fraud and graft?

Mr. BROWNING. I would say it would be very tempting to ask a man to plead not guilty whether he is guilty or not, and thus get the benefit of the increased fee.

Mr. CRISP. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. CRISP. Under the law a man is supposed to have a trial by an impartial judge and an impartial jury, but under this provision he must be adjudged guilty by the judge before he ever gets a jury, and does he not enter the trial under those circumstances with his presumption of innocence stripped from him and having to carry the presumption of guilt and his case heard before a judge who has already expressed an opinion in the case?

Mr. BROWNING. Absolutely. I think that undoubtedly a man under those conditions, whose case has been heard by the court and then asks for a jury trial, would be placed in the same condition as described by Judge Harlan in the opinion just referred to, where a man in the first instance is entitled to it if he is entitled to it at all.

Mr. LEA. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. LEA. Is it not also true that under the Federal practice the judge would have the right to advise the jury that he had already found the defendant guilty?

Mr. BROWNING. Undoubtedly so.

Mr. HILL of Alabama. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. HILL of Alabama. It would not be possible under this bill for a man to get vindication from a jury of his peers without first having been convicted.

Mr. BROWNING. That is true.

Mr. SABATH. Will the gentleman yield?

Mr. BROWNING. Yes.

Mr. SABATH. In view of the knowledge the gentleman possesses, does he not think this bill would relieve the professional violator of the law and operate against the ignorant and poor man who comes into court for the first time?

Mr. BROWNING. In my opinion it will give additional opportunity for delay to those who know the rules of the game.

Now, gentlemen, I want to discuss one other feature. I think the great right of trial by jury is abridged in this bill, a right originally secured under the provisions of Magna Charta in 1215, in which it was said that no freeman shall be taken or imprisoned or disseized or outlawed or exiled without the judgment of his peers or by the law of the land.

Denial of trial by jury was the very complaint we made against the King of England when we declared our independence. It was one of the principal questions considered by the Continental Congress before the Declaration of Independence, and it was insisted and determined we should never take from the American people the right of trial by jury. I do not insist

that America is bound by the rule in England, where they did delegate the trial of small offenses to magistrates, because our people went farther than that and determined in the foundation of our Government that this was one of the very bedrocks of this Government, that the trial by jury should not be denied to anyone who asked for it. I insist that because the Supreme Court recognizes a few petty conditions under the Constitution which involve no moral turpitude, that are not guaranteed jury trial, that they did not contemplate taking away the right of trial by jury for substantial offenses. In this sort of legislation I insist we are going too far afield and undertaking to make the Constitution practice a lot of contortions that we may go through that loophole and deny a man the right of trial by jury when he can be sent to jail for six months. I do not care whether it is at hard labor or not, because when the jail doors close behind him the stigma is on him.

May I say that you are considering a very serious matter when we undertake to withhold from any citizen of this land, however humble, the right to have a jury of 12 men pass on his guilt or innocence before we lock the jail doors upon him. [Applause.]

The other proposition I have in mind is that the declared purpose of the bill is to relieve congestion. Would it be quicker for the Federal judge to sit on the bench and hear a plea of guilty and ask questions for 5 or 10 minutes or would it be quicker for him to take the record that some United States commissioner has written, undertaking to set out the warrants, the charges, his finding, and the facts, read that over, and do justice according to the record. I am telling you that a Federal judge can dispose of five or six times as many cases from the bench, and do it more equitably and more in keeping with the facts and with a better understanding of the conditions, than he can by sitting down with the same number of records and undertake to work them out from the report of somebody else who took the testimony, when the judge never had an opportunity to have the witnesses or the accused confront him.

Mr. COX. And in the event there is a disagreement with the commissioner, the judge has to try the case all over again.

Mr. BROWNING. He has to try the case over again, and not only when he finds him guilty instead of not guilty, as the commissioner decided, but in every case where a plea of not guilty was made before the commissioner he must try him if he asks a jury trial. And the same judge who has made the finding presides at the trial. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. BACHMANN. Mr. Chairman, I ask unanimous consent that I may incorporate in the RECORD as a part of my remarks a list giving, by States, the number of United States commissioners.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The statement referred to follows:

List of United States commissioners, by States

State	Offices	Vacant	Active
Alabama	20	1	19
Arizona	24	2	22
Arkansas	16		16
California	36		36
Colorado	31		31
Connecticut	7		7
Delaware	1		1
District of Columbia	2		2
Florida	26	2	24
Georgia	26	4	22
Hawaii	4		4
Idaho	53	4	49
Illinois	18		18
Indiana	12		12
Iowa	15	2	13
Kansas	10	1	9
Kentucky	35	3	32
Louisiana	10		10
Maine	4		4
Maryland	10		10
Massachusetts	8		8
Michigan	14		14
Minnesota	25		25
Mississippi	8		8
Missouri	20		20
Montana	122	8	114
Nebraska	14		14
Nevada	21		21
New Hampshire	4		4
New Jersey	17		17
New Mexico	72	8	64
New York	70	4	66
North Carolina	104	3	101
North Dakota	40	1	39
Ohio	14		14
Oklahoma	24	1	23
Oregon	33		33
Pennsylvania	42	2	40
Porto Rico	3		3
Rhode Island	3		3
South Carolina	14		14
South Dakota	25		25
Tennessee	47	2	45
Texas	32		32
Utah	9		9
Vermont	8		8
Virginia	26	1	25
Washington	54	2	52
West Virginia	31	2	29
Wisconsin	6	3	3
Wyoming	46		46
	1,316	56	1,260

Mr. GRAHAM. Mr. Chairman, I yield 15 minutes to the gentleman from Massachusetts [Mr. STOBBS].

Mr. STOBBS. Mr. Chairman and members of the committee, there seems to be a great deal of misconception about the origin of this bill. A great many people think this plan of utilizing commissioners as a sort of lower trial judges originated with the Law Enforcement Commission. This is entirely untrue.

Several years ago the council of judges, consisting of the senior circuit judges of the United States, in conference with the late Chief Justice Taft, recommended that some use be made of the commissioners as lower trial judges to relieve the congestion in the district courts of the United States.

The American Bar Association came before our committee three or four years ago and urged that something be done along this line, and, Mr. Chairman, all that the Law Enforcement Commission has done is to simply take the suggestion that was made by the senior circuit judges of the United States, indorsed by the late Chief Justice Taft, and try to give it some practical application so as to take care of the situation which confronts us at the present time.

All the talk about a man being tried twice and being subjected in this way to a hardship is entirely beside the point. There is not a man sitting in this room to-day who is not familiar with the widespread practice in our State courts of bringing a man before the magistrate of a lower court before he is brought for trial by jury in the upper court. The man is tried twice under these circumstances.

Mr. BACHMANN. Will the gentleman yield?

Mr. STOBBS. No; let me complete my statement. My time is short.

The man is tried twice under these circumstances. He goes through the lower tribunal before he claims his right of trial by jury, and there is no hardship upon the man; in fact, it is to the man's advantage if he is tried twice, because he has two chances of acquittal, and in the last analysis he always has the opportunity for a jury trial.

The suggestion was made by the gentleman from Georgia [Mr. CRISP] that in this particular plan that has been suggested, the man is tried twice by the same judge. This is a misleading statement. The judge, in the first instance, only considers the recommendation of the commissioner, and he simply approves or disapproves that recommendation. Then if the defendant claims his right to a trial by jury, it is the jury that determines the issue of guilt or innocence and not the judge. So there is absolutely nothing in the statement that a man is tried twice before the same judge, as far as the determination of the issue of guilt or innocence is concerned.

Mr. BACHMANN. Will the gentleman yield for one suggestion?

Mr. STOBBS. Let me complete my statement and then I will answer all the questions the gentleman wants to ask.

Now, I say to you that the Law Enforcement Commission took the suggestion that was recommended and tried to utilize it. Why? We all know there is a lot of congestion in our courts. There has been widespread complaint about the delay in the disposal of civil cases, and the intention is to establish some lower court tribunals in the Federal courts along the lines of those established in State courts. There is nothing novel in this idea. It is a perfectly logical thing to do.

Now, my friend from West Virginia says that one difficulty with the suggested plan is that the parole system, or the probation system, as we call it in Massachusetts, can not be utilized to the fullest extent.

This is also a misleading statement as to the practical operation of the plan. This is how it will work out:

A man goes before the commissioner, we will say, and pleads guilty or not guilty—it makes no difference which—and the commissioner makes a recommendation. You do not suppose

for one minute that the judge is going to pass sentence on that man unless he finds out all about the case. He is not going to be satisfied with what the commissioner says by way of recommendation. He will say to his probation officer, "Find out all about this man before the recommendation of this commissioner comes before me for consideration." Moreover, as a practical matter, the district attorney, with all his sources of information, must of necessity find out all about the defendant, check up whether the offense under consideration is a first, second, third, or fourth offense, and provide any other information which may be required by the court before a decision is made.

My good friend from Tennessee [Mr. BROWNING] makes the statement that the difficulty with the proposed plan is that it abridges the right of trial by jury. Why, my friends, any man, under the proposed plan, has just as much right to a trial by jury as he has in any State court in any State of the Union in which the practice to which I have referred prevails at the present time.

No man gets a trial by jury in the lower court; he gets it in the upper court, and it has always been preserved for him. A man goes through the lower court first, and if he is not satisfied with the disposition of his case there he claims a trial by jury. Under the plan proposed by the Judiciary Committee in accordance with the suggestion of the senior circuit judges, anyone brought before a commissioner has the same right to claim a trial by jury that he would have if brought before any of the State courts to which I have referred.

You can not take it away from him. We do not want to take it away from him. As the gentleman from Tennessee has said, it is a sacred right handed down from time immemorial. We members of the Judiciary Committee are the last people in the world to come before you and advocate taking away that sacred right.

As a matter of fact, the plan proposed not only safeguards the defendant's right of trial by jury, it goes a step further. It really gives him an additional right that he does not have at the present time.

Take the case of a defendant who lives a hundred miles away from the court. Take a man in my State who lives in Worcester or Springfield and is arrested for a violation of a Federal law. Suppose it is a violation of the pure food law, for this bill applies to violations of the Federal laws. There are 184 instances where the sentence prescribed by Federal law is a fine not exceeding $500, or imprisonment for a period not exceeding six months. It is not only prohibition cases that may be dealt with under the proposed plan.

The man in Worcester or Springfield being arrested under the pure food law is subject only to a fine of say from $10 to $25. He does not want to hire a lawyer or go to the expense of going to Boston. Under this bill all he has to do is to walk in before the commissioner in Worcester or Springfield—and it is the same in all your States—and say I am guilty or not guilty. If he says he is guilty and he wants to pay his fine he pays it. After the commissioners' recommendation is made, word comes back that the recommendation is accepted, and he pays his fine in Worcester. He does not have to go to Boston; he saves that expense. All this talk about abridging the rights of the defendant is unjustified. Why, my friends, this legislation is in the interest of the defendant in small violations of law.

Now, there is one other thing I want to call attention to. Something has been said about the personnel of the commissioners—that the commissioners are not fitted for the duties which will devolve upon them. The commissioners are appointed by the judges, and any deficiency in personnel is easily remedied.

The minute this law goes into effect every judge, knowing that he is responsible for the type of man he appoints, will no doubt remove from office any commissioner who is not fitted for the new requirements of the position, appointing a high type of commissioner fitted in every way to act substantially as a lower-court judge.

We would like to make them actual judges. We would like to appoint judges just as judges have been appointed in the State courts to which I have referred. The difficulty is we can not do it. The Constitution of the United States provides that the exercise of judicial power, under Article III, shall be in the hands of a judge who shall have life tenure, and we are not prepared at the present time to go to the expense and the practical difficulties involved in creating a lot of minor courts throughout the United States. We are doing the next best thing. We are utilizing the machinery already set up—the commissioners—so that they may function right away with a view to relieving congestion.

There is just one other thought: It has been suggested by my friend from South Carolina [Mr. DOMINICK] that there will, in fact, be no relief of congestion under the proposed plan. I can not see how he draws that inference. Certainly in the illustration that I gave of a man electing to come before a commissioner to avoid the expense and the trouble involved in going to a court miles away is some proof of our contention. There are many people—75 per cent, perhaps, of those charged with minor cases under this law—who will go before a commissioner, plead guilty or not guilty, and have their case tried by him.

Mr. DOMINICK. Mr. Chairman, will the gentleman yield?

Mr. STOBBS. Not now. Then when their case is tried and they are satisfied with the recommendation made, they will accept that recommendation rather than go to the expense of a further trip to Boston or New York, or wherever the appropriate court may be.

Mr. PALMER. Mr. Chairman, will the gentleman yield?

Mr. STOBBS. In a moment. If that is the case, you are not only helping the defendants, but you are relieving congestion in the courts, and that is the sole purpose of this bill. That is what we want to do. We want to relieve our United States judges from being police judges and let our commissioners function as quasi police judges, so that the United States district judges can try their civil cases and the serious criminal cases. When we do that we will have gone a long way toward relieving congestion in our courts, which is the bane of every lawyer who is practicing in these courts. I now yield to the gentleman from South Carolina.

Mr. DOMINICK. Mr. Chairman, will the gentleman tell me if there is anything in this bill by which the commissioners shall have a finality of a case?

Mr. STOBBS. What does the gentleman mean by a finality of a case?

Mr. DOMINICK. A final disposition.

Mr. STOBBS. Of course there is not.

Mr. DOMINICK. Is it not a fact that the bill as originally before the committee provided that these commissioners could make a finding and that was stricken out?

Mr. STOBBS. To avoid any possible misconception.

Mr. DOMINICK. The illustration the gentleman made with respect to his friend who could go and pay $10 to the commissioner and have his case for a violation of the food law settled does not apply, because it has to go to the district judge anyway.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. STOBBS. May I have one minute more?

Mr. MICHENER. On behalf of the chairman of the committee, I yield two minutes more to the gentleman from Massachusetts.

Mr. STOBBS. The defendant comes in and is willing to pay his $10 fine. A recommendation is made to the United States district court, and approved. The defendant pays the fine before the commissioner because under our law the defendant who is found guilty of a minor violation, a misdemeanor, does not have to be actually present in court. That defendant would not have to go anywhere except to the commissioner's office in the city of Worcester.

Mr. DOMINICK. But the commissioner can not accept the fine under this bill.

Mr. STOBBS. He will when the judge recommends it.

Mr. DOMINICK. It has to be paid to the clerk of the district court.

Mr. STOBBS. Oh, the commissioner will forward it to the clerk. That is the machinery that is to be set up.

Mr. ALDRICH. Mr. Chairman, will the gentleman tell me what the words "petty offenses" mean in line 5?

Mr. STOBBS. They are defined by the legislation which we passed yesterday as offenses for which the sentence prescribed does not exceed six months in jail or a fine of $500, or both.

Mr. ALDRICH. Does the legislation passed yesterday use the words, "petty offenses" also?

Mr. STOBBS. Yes. And that legislation was passed so that this bill could be read in reference to it.

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

Mr. MICHENER. Mr. Chairman, on behalf of the chairman of the committee I yield five minutes to the gentleman from Indiana [Mr. HICKEY].

Mr. HICKEY. Mr. Chairman, ladies and gentlemen of the committee, I have listened with much interest to the discussion of this bill by those favoring it and those opposing it. The subject matter of the bill is of the utmost importance and deserves your serious consideration. As my friend Mr. STOBBS, of Massachusetts, said, this proposed legislation was first brought to the attention of the Committee on the Judiciary of the House by representatives of the American Bar Association, the council of judges, and other distinguished lawyers. In considering the situation in this country with respect to crime,

and especially with respect to petty offenses, it was thought that if some plan could be worked out to handle those petty offenses it would be greatly in the interest of justice and would facilitate the business of the Federal courts. In support of this proposition, as I have said, there appeared before our committee about two years ago gentlemen representing the American Bar Association, the council of judges, and many distinguished lawyers over the country urging the passage of a bill much like the one under consideration to-day. The question of the right of Congress to enact such a law was the only thing that seemed to stand in the way. But this question seems to have been settled by he United States Supreme Court on April 14, 1930, in the case of John Patton, Harold Conant, and Jack Baker against The United States of America. This case definitely decided the right of a defendant in a criminal case to waive a trial by jury. The waiver of trial by jury was a difficult problem with the commissioners' bill when it was first being considered by the committee some two years ago. This matter having been disposed of by the Supreme Court in the case I have referred to, the majority of the committee concluded that the bill under consideration would be sustained by the courts if passed; that it would be in the interest of expediting criminal business in the Federal courts; that it would not deny a defendant of any of his constitutional rights, but would be in the interest of petty offenders.

At this time I want to emphasize the fact that this proposed legislation does not in any way abridge the right of a defendant to trial by jury and does not apply to felonies. As all of you know, especially those who are lawyers, 95 per cent of all of the petty offenses committed in violation of State laws are tried by minor State courts without juries—before justices of the peace, city courts, and so forth. If the defendant in those cases so desires, he has the right in State courts to appeal and have his case tried de novo. If this bill becomes a law and a recommendation of acquital is made by a United States commissioner, that will end the case. If a recommendation of conviction and punishment is made to the court by the commissioner, the defendant has a right to object to the findings of the commissioner before whom the hearing has been had and can have a trial before a Federal court with a jury.

Mr. LAGUARDIA. Will the gentleman yield there to correct a statement that he inadvertently made?

Mr. HICKEY. I have so little time.

Mr. LAGUARDIA. The gentleman stated that this bill was recommended by the American Bar Association and that we had hearings upon it. This is not the bill.

Mr. HICKEY. I beg the gentleman's pardon. I said a bill substantially like the bill before the House to-day, and I think I made that statement when I referred to it.

It was supported by Mr. Charles P. Taft, of New York City, and by Colonel Chaffee, now a member of the Federal court, and many other distinguished lawyers. There are about 90 petty offenses under the Federal law. Some gentlemen seem to think that this bill applies only to prohibition cases. This is not the fact. But suppose a person violates the game laws, the quarantine laws, the narcotic laws, or the postal laws, and the offense is classed as a petty offense. He is arrested. Then suppose the court is not in session. He is brought before a United States commissioner, has a hearing, and, if held to be guilty by the commissioner, he is bound over to the court. If he is unable to furnish a bond, he goes to jail and must remain there until his case is disposed of—possibly for two or three or even four months, perhaps longer. This bill would give him the additional privilege of having an early disposal of his case without taking from him any of the rights he now has under the Constitution. So it seems to me it is not only in the interest of expediting business before the courts but it is also in the interest of poor defendants.

Mr. WILLIAM E. HULL. Mr. Chairman, will the gentleman yield?

Mr. HICKEY. Yes.

Mr. WILLIAM E. HULL. Suppose a man could not pay his fine. He would go to jail, would he not?

Mr. HICKEY. No. Suppose he had a hearing under this bill, and the commissioner concluded he should pay a fine of $10 or serve 10 days in jail. He would pay the $10, and, if not, he would serve 10 days and that would relieve him of the burden of having to remain in jail for 4 months; or if the defendant were found not guilty he would be released at once. This is the procedure in the State courts.

Mr. WILLIAM E. HULL. I understood you to say that if he could pay his fine he would be relieved of going to jail, but if he could not pay his fine he would go to jail and could not get any relief.

Mr. HICKEY. He could have his case certified to the court for trial, pay his fine, or serve the time——

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. DOMINICK. Mr. Chairman, I yield 10 minutes to the gentleman from Virginia [Mr. TUCKER].

The CHAIRMAN. The gentleman from Virginia is recognized for 10 minutes.

Mr. TUCKER. Mr. Chairman, 10 minutes is too short a time in which to discuss this bill, to which I have given a great deal of thought. It is fathered by my good and dear friend CHRISTOPHERSON. But really CHRISTOPHERSON is not its real father but its stepfather, because this is not his bill. I think too much of him to even accuse him of being the father of such a bill. [Laughter.]

Mr. Chairman, there is not a section in this bill that conforms to the Constitution of the United States except one, and that is the last one:

This act shall not apply to the Territory of Alaska.

[Laughter.]

Look at it for just a moment. My good friend from Tennessee [Mr. BROWNING] has just made a splendid speech to you and referred to one point I had in mind. I do not ask you as lawyers; I ask you as common-sense men; I would almost challenge any man in this House to indorse this first section. What is it? A fellow comes in and pleads guilty. The commissioner shall transmit the complaint and warrant and plea to the clerk of the district court. He would presumably take them to the judge and thereupon with the warrant, and, curiously, with the name of the man, John Schafer, on it, declare him guilty. [Laughter.] Thereupon, with that record before the judge, with no evidence of character, amount of liquor involved, whether first offense or habitual dealer, by which he could determine the proper punishment, "and thereupon judgment shall be rendered and sentence imposed by the judge of the court."

Just think of it! If that judge were Mr. CHRISTOPHERSON, the stepfather of this bill, he would never render judgment on such a record. There is no evidence set up; only a warrant and a plea. "Coram nonjudice!" CHRISTOPHERSON would say. [Laughter.] Just think of such bill coming out of this committee!

Mr. SPROUL of Kansas. Mr. Chairman, will the gentleman yield there?

Mr. TUCKER. Yes.

Mr. SPROUL of Kansas. Would not the court in making its rules and regulations for the conduct of the commissioner enlarge his jurisdiction, putting the duty on him of recording the evidence and making findings of fact? And would not that be constitutional?

Mr. TUCKER. Yes; you might put something in the bill that might accidentally or possibly make it constitutional; but I am speaking of what is in the bill now, and the above is the entire record on which the judge is to render judgment. Our duty is to make it right before it goes out of here. [Applause.]

Now, there is the first section. I see that among other things this bill is called "A bill to relieve congestion in the courts," and what is the first thing in the bill we see to relieve it? To provide two trials for a man instead of one. That is to relieve congestion! And mind you, the judges in some cases have to make written opinions. That is a good way of saving the judges' time, requiring them to make written opinions! I suppose, of course, those opinions will be collected and we will be called upon to pay for the opinions of the judges on the cases involving a pint of liquor which men like this man, John Schafer, may have had. [Laughter.]

What is the next thing? The next two sections provide for cases where the defendant pleads not guilty. I do not believe even a Philadelphia lawyer—not even the great and honored chairman of this committee—can read those two sections and assert that he can understand them. [Laughter.] They are about the most complicated, disjointed, confused propositions that ever I tried to make anything out of.

Let us see. When he pleads not guilty in this case, the commissioner is required to send up the hearings to the clerk of the court: [but not in the case of a fellow who has confessed to his guilt]; the plea and the warrant and what else? The recommendation of the commissioner. How is that? What sort of procedure is that? The Constitution says a man is entitled to be confronted at his trial by his witnesses; but here the judge has sent up to him—I do not know what the hearings are or how they come—the plea and the warrant and the recommendation of the commissioner to the effect, "I have examined this man's evidence and heard it all, and I think he is guilty." He reads the words, "I think he is guilty."

Now, suppose that man were tried in open court and the commissioner was sitting there and heard all the evidence, and after

the judge had heard the case he went into his chambers, and the judge sent for the commissioner and said, "Jake, how would you decide that case if you were me?" Is that evidence? Is that the evidence that an American citizen is to be tried upon under the constitutional privilege of a speedy and impartial trial? [Applause.] And when the commissioner sends his recommendation to the judge he is sending illegal evidence, for it is hearsay.

The jury trial constitutes the equity side of criminal jurisprudence. The rigors of the common law, it seems, could not be shaken. The law was so written, and so it must be obeyed; quietly and unnoticed this great principle of equity began to show itself. It did not blatantly, openly, defy the common law at first, but it graciously suggested that if a contract which unquestionably under the common law was broken could be mended the parties would be better off than if they followed the remedies under the law for a broken contract. If the broken parts, in other words, could be put together and the healing could be brought about by the "first intention" it was far better for the litigants, for society, and for the country.

This principle, which germinated years ago with its conciliatory principles against the assertion of rigid rights under the law, began to grow and develop as civilization began to realize itts beneficent results, until to-day we recognize that in the last half century equity has become the great moving power in English jurisprudence; and the triumph of equity has been fully recognized in the last 50 years in the mother country.

And so the jury trial was the result of another revolt against the rigors of the common law. "An eye for an eye, and a tooth for a tooth" is the principle which underlies the law of murder. A man who slew his neighbor, his brother, or his friend must pay the penalty with his own life. A man who, to save the honor of his home, slays the invader must still answer with his life, for thus the law is written.

When a jury came to sit in the box to determine the fate of a criminal it was not because they knew the law better or as well as the judge on the bench, but it was to allow them to hear the evidence and to see if any mitigating circumstances actually existed that should be applied to the relief of the prisoner; and, in its final analysis, I think there is no doubt that the actual result of their findings is ordinarily that if each man on that jury feels that under the same circumstances he would have acted as the prisoner did that they must find him guiltless. If that be true, it is not an amendment of the law, for are we not told that "Who so sheddeth man's blood, by man shall his blood be shed"? (Genesis ix, 6.) Is it not a strong approval of what existed even before the beginning of government directing and controlling society that what the great body of the people in any community of good standing and of fair repute, without law or government, were accustomed to do in their relations with each other was recognized by the law-abiding class of the community as the law of that community?

And when a jury and every man of it says by his verdict that "I would have done what the prisoner did," is it not an unconscious recognition by the jury, that represents the community at large, that what is so recognized by the best elements of any community is in effect the law, and therefore while not uprooting the law, but recognizing it as a potent and necessary element in the community, their position allows them to mitigate the harshness and rigidity of the law and permits them to admit the plea of weak human nature under temptation and emotion for the benefit of humanity?

I just want to add that the jury trial provided for in this bill is not the jury trial required by the Constitution. As Judge Harlan said in the case of Callan against Wilson, "The accused is entitled not to be first convicted by a court and then to be acquitted by a jury, but to be convicted or acquitted in the first instance by the jury." [Applause.]

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. GRAHAM. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. MOORE].

Mr. MOORE of Ohio. Mr. Chairman and ladies and gentlemen, in the bill that was passed yesterday afternoon we defined "petty offenses." The Jones law was made applicable to this plan if the commissioner bill is adopted.

There are 183 different offenses besides prohibition that are in what we would call the list of minor or petty offenses, so it is not intended to apply and does not apply to prohibition alone. It is intended to, and we believe it will, relieve congestion in the courts. It has been recommended by the President, the Attorney General, and the Law Enforcement Commission.

Much has been said about the right of trial by jury and the right of the poor unfortunate criminal. Nobody would take away any right of trial by jury, where there is that right, but it occurs to me that occasionally we should think of the rights of the Republic and the people who want the laws obeyed and enforced. [Applause.]

The commissioner bill will not take away a single right of trial by jury that any defendant now has. As has been said time and again, it will enlarge the rights of a defendant. He can go before a commissioner and enter a plea of guilty. A recommendation can be made to the district court and sentence there imposed. If a hearing is held and he does not want to abide by the judgment and penalty imposed by the district court, he can then demand a trial by jury.

The decisions are well defined with reference to petty offenses that have been named as coming under the provisions of this bill. None of them give any constitutional right of trial by jury in those cases. So instead of taking away rights we are extending the rights of defendants, as it were.

As has been said by my friend from Indiana, I believe, probably 95 per cent of the persons accused of petty offenses are not only willing but anxious to have their cases decided and ended in the commissioner's court or an opportunity of having some court of summary jurisdiction pass upon their cases.

Mr. DENISON. Will the gentleman yield?

Mr. MOORE of Ohio. I yield.

Mr. DENISON. This bill provides what the commissioner shall do if a defendant pleads guilty and if he pleads not guilty. What will the commissioner do if he refuses to plead?

Mr. MOORE of Ohio. I assume he would do like any court would do, enter a plea of not guilty.

Mr. DENISON. When he refused to plead in any way?

Mr. MOORE of Ohio. Yes.

Mr. DENISON. Then that would mean that the case would have to be certified to the judge for trial?

Mr. MOORE of Ohio. Some might take that view, but I am inclined to the opinion that when the plea of not guilty had been entered by the commissioner a hearing would then be held by the commissioner.

Mr. DENISON. Then if all these men are instructed to refuse to plead there would not be much saving, would there?

Mr. MOORE of Ohio. That might be true if your view were accepted, but I believe under those circumstances the commissioner would hold a hearing. But I repeat what I have said, the defendants are losing none of their rights, but most of them are anxious and willing to have their cases tried and decided quickly.

Mr. MICHENER. Will the gentleman yield?

Mr. MOORE of Ohio. I yield.

Mr. MICHENER. If the defendant stands mute and refuses to plead, a plea of not guilty is entered, and the commissioner proceeds then the same as if he had pleaded not guilty and a hearing is held.

Mr. MOORE of Ohio. That is correct.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. GRAHAM. Mr. Chairman, I yield five minutes to the gentleman from Kansas [Mr. SPARKS].

Mr. SPARKS. Mr. Chairman and members of the committee, as has been suggested in the remarks before the committee, the purpose of this bill is to relieve congestion in the courts. Not only that, but we are legislating for the future as well as conditions at the present time. We can reasonably anticipate that conditions of the future will increase to the same extent as they have in the immediate past.

It has been said that the commissioners are not of such mental caliber that they can meet the added responsibilities which will be imposed under this bill if it should be passed. If this bill should be passed, it will be an implied direction to the judges of our courts to select commissioners who will be capable of meeting the added responsibilities under this bill.

The bill only provides that the commissioners shall be an adjunct of the court, and, as an arm of the court, aid the court in the disposition of that business which is considered petty business, as defined in the bill which was passed by the House yesterday afternoon.

I think nearly all States of this Union permit cases of that character to be tried before inferior tribunals, and not only have a hearing, but that they shall have the right to pass final judgment thereon. I refer to the justice courts, and I see no reason why, because one may be charged with violating a criminal statute which constitutes a petty offense under the Federal laws of the United States, his rights are any more sacred than those who are guilty of similar offenses under State laws.

Mr. BACHMANN. Will the gentleman yield?

Mr. SPARKS. I yield.

Mr. BACHMANN. Is it not a fact that under the State law an appeal lies from the justice court to the State court, while under the proposed law there is no appeal?

Mr. SPARKS. It is not a trial, either.

Mr. BACHMANN. Then, it is not on the same basis as the justice court, is it?

Mr. SPARKS. No; because it does not reach that extent. It does not go that far. It is just a hearing before a commissioner, and the trial is really had in the district court and not before the commissioner.

Mr. SABATH. Will the gentleman yield?

Mr. SPARKS. I yield.

Mr. SABATH. Does the gentleman actually believe that any offense that is punishable by six months' imprisonment and $500 fine is a petty offense?

Mr. SPARKS. Well, does the gentleman consider that it is not?

Mr. SABATH. No; I do not, when it calls for imprisonment for six months and a fine of $500, or both. I think that is a rather serious thing for any person.

Mr. SPARKS. Then, the judgment of the House was wrong yesterday when they passed the bill?

Mr. CHRISTOPHERSON. Will the gentleman yield?

Mr. SPARKS. I yield.

Mr. CHRISTOPHERSON. The courts have held that it is not an infamous offense.

Mr. SABATH. I do not say it is infamous, but I maintain that it is not petty when a fine of $500 and six months' imprisonment is provided.

Mr. SPARKS. Under this bill which is before us for consideration the defendant has an opportunity to know what the evidence of the State is, if there is a hearing, so that he has that advantage. [Applause.]

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. GRAHAM. Mr. Chairman, I yield five minutes to the gentleman from Iowa [Mr. SWANSON].

Mr. SWANSON. Mr. Chairman, ladies and gentlemen of the committee, the bill which we are considering at this time has been before the Judiciary Committee for several months, brought there at the instance of the Law Enforcement Commission which was appointed by President Hoover. The Law Enforcement Commission, as we all know, is composed of Republicans and Democrats, men and women, who are interested in bringing about a better enforcement of the laws of this country. This is one of a series of bills which they have asked to be presented to this Congress for enactment, and that is how this bill happens to be here for consideration to-day. Some say it is not a partisan measure. It is not. Some say it is not a wet or dry measure. It is not. It is a law enforcement measure; but I have observed from the speeches on the floor that many interested in behalf of the wet side are on one side of this issue and are against this bill.

Mr. McMILLAN. Will the gentleman yield?

Mr. SWANSON. Yes.

Mr. McMILLAN. The gentleman has also observed that a number of those against this bill are drys in the sense the gentleman uses that term.

Mr. SWANSON. I have observed that. It is true that some sheep have gotten in with the goats.

Mr. MONTAGUE. Will the gentleman yield?

Mr. SWANSON. Yes.

Mr. MONTAGUE. The gentleman said this was not a partisan bill.

Mr. SWANSON. I think it is not.

Mr. MONTAGUE. And that it is not a wet or dry bill.

Mr. SWANSON. I think it is a law enforcement bill.

Mr. MONTAGUE. Then, if the gentleman takes that position, how can he say that gentlemen are wet or dry? The gentleman contradicts himself.

Mr. SWANSON. I simply observed that many of those who have spoken against the bill are on the wet side.

Mr. BACHMANN. Will the gentleman yield?

Mr. SWANSON. Yes.

Mr. BACHMANN. Does the gentleman mean to convey to the House that everybody who speaks against this bill is a wet?

Mr. SWANSON. I certainly do not, and I did not say that. I said that the wets were on one side of the question and are opposed to this bill.

I claim time, ladies and gentlemen, to suggest an amendment which I propose to offer at the proper time which, I think, will be for the strengthening of the bill. After section 3, I propose to suggest that the bill be amended in this way:

At any time before the entry of final judgment by the court in any prosecution under this act the district attorney may elect to present any such case to the grand jury, after which all future proceedings in the case shall be pursuant to the action of the grand jury.

I do that for this reason: All of you who have been prosecuting attorneys know that there are always a lot of cases which are in the twilight zone. If they come before the commissioner and then are brought before the court the prosecuting attorney would have to take the responsibility and bear the burden of determining whether the Government shall be put to the expense of trying the cases. Those cases, in my judgment, on the election of the district attorney should properly go before a grand jury and let the grand jury take the responsibility; and if the evidence is so uncertain that conviction is not probable the Government should not be put to the expense of a trial in those cases, and the grand jury should take the responsibility of that action. On the other hand, when a known bootlegger is caught selling a gallon of whisky, or making a gallon of whisky or transporting it, and he is arrested by officers, he is then brought for a hearing before the commissioner and he hastens to enter a plea of guilty for the purpose of getting in under the cover of petty offenses so that his penalty can not be more than $500 or six months in jail.

Mr. BACHMANN. Will the gentleman yield?

Mr. SWANSON. Yes.

Mr. BACHMANN. After you have created petty offenses, a known bootlegger, who may have been in business for five years, may be caught with a gallon of whisky and he will have to be tried under petty offenses.

Mr. SWANSON. That is the danger, and that is why I have suggested this amendment.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. GRAHAM. Mr. Chairman, I yield the gentleman one additional minute.

Mr. SWANSON. The purpose of my amendment is that if a man who is a known bootlegger is caught under the circumstances I have related, and there is sufficient evidence against him, his case can be presented to the grand jury at the election of the district attorney; and if he should be prosecuted under the Jones law the grand jury will return an indictment under the Jones law, and he will not escape the severe penalty of that law if he is a commercialized violator by getting in under the penalty for petty offenses. [Applause.]

Mr. MONTAGUE. Mr. Chairman, I yield myself eight minutes. I did not expect to make any extended remarks upon this bill, because I desired to yield to my colleagues upon the committee all the time it was possible to yield to them.

I wish to submit some observations on the bill. I hope my words will not be construed in any way as offensive when I say that this bill is not a candid piece of legislation, and I impute no lack of candor to any gentleman of the committee or any gentleman of this House. This bill undertakes to make the commissioner a semijustice of the peace, desiring thereby to secure judicial and administrative powers. This bill makes a commissioner decide the case and then declares that he makes no decision; that his finding and conclusion is suggestive to the judge. This bill makes a commissioner decide a case and then asks the judge to approve or disapprove, and what record has the judge to disapprove or approve except that contained in the recommendation of the commissioner?

Now, my colleague, Mr. STOBBS, of Massachusetts, says the commissioner is somewhat analogous to a justice of the peace. It is this precise question that the Judiciary Committee endeavored to avoid, for to constitute the commissioner a justice of the peace is a vain act, as such an official is concededly a judge and therefore fills and discharges duties contrary to the Constitution. The commissioner under the present law bears no substantive resemblance to a justice of the peace or the latter to the commissioner.

If this were not true, you would not need this bill. The law would be existent and we would not need this proposed legislation. But this legislation provides an indirect method to cure the lack of judicial power on the part of the commissioner.

A justice of the peace is a judge. He conducts a trial, he hears evidence, he renders a judgment. He makes no recommendations to any court. A dear old friend of mine made a wise observation when he declared that there were only two kinds of justices, justices of the peace and Justices of the Supreme Court of the United States. [Laughter.]

You can appeal from a justice of the peace, but you can not appeal from a commissioner. The commissioner by this process and by virtue of the bill is intended to circumvent and overcome the judge; for the commissioner will practically and resultingly make a subordinate judge of the district judge, for unless he accepts the recommendation of the commissioner there is no gain in time or simplification of procedure, and if he does accept the recommendation it is really the commissioner's decision, and not that of the court.

Under the law, to repeat, the justice of the peace is a judge, a real judge, and the commissioner is an executive or administrative agent. Herein lies the vice and insuperable objection of this phase of the bill.

There is no resemblance between a justice of the peace and a commissioner, and to create such resemblance is fatal.

Now, another observation. I wish to disabuse the minds of gentlemen that this bill is a bill brought before us by the Law Enforcement Commission. If you will examine the original bills, you will see that they could not successfully surmount the constitutional barriers, and therefore fell into innocuous desuetude. In this bill the effort is made to deny the commissioner the functions or qualifications of a justice of the peace. Look at the italicized language, amendments of the bill. For example, where it was provided that the commissioner was to make a "finding," such power has been stricken out, because to make and declare a "finding" is judicial action.

Mr. SPROUL of Kansas. Will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. SPROUL of Kansas. Is it not a fact the commissioner is given the jurisdiction of a justice of the peace in the entire conduct of the trial, in passing on the admission of evidence and so forth?

Mr. MONTAGUE. No; the bill denies that. It does not permit him to pass on any evidence. The commissioner merely takes the plea of guilty or not guilty of the accused and then makes his recommendation thereon. The commissioner does not forward the evidence to the court upon which the recommendation is based. The court acts upon the recommendation and not upon a transcript of the evidence, for no such transcript on the taking of evidence is provided for.

Mr. MOORE of Ohio. Will the gentleman yield?

Mr. MONTAGUE. Yes.

Mr. MOORE of Ohio. On page 2 of the report accompanying this bill is a letter from Mr. Wickersham in which they do approve this bill.

Mr. MONTAGUE. I did not say they did not approve it. I said they did not bring this particular bill first before the committee. That is what I stated. They will take the bill now because they know they made a mistake. They are honorable and learned gentlemen, but they know little about the practice of criminal law. That is the trouble about it. [Laughter and applause.]

Mr. WURZBACH. Will the gentleman yield?

Mr. MONTAGUE. I will.

Mr. WURZBACH. The gentleman has called attention to the fact that the word "finding" had in each case been changed to "recommendation."

Mr. MONTAGUE. Yes.

Mr. WURZBACH. But it is a fact, is it not——

Mr. MONTAGUE. That he does make a finding; yes.

Mr. WURZBACH (continuing). That the recommendation must necessarily include a finding.

Mr. MONTAGUE. The gentleman is right. I am showing that this is a juggling of words. The bill gives him more or less the fuctions of a justice of the peace; but you deny in the language of the bill that this is done. Therefore I made the observation, most respectfully, that it is not candid legislation.

And, gentlemen, should not that remark find a hospitable reception in this body? The basis of prohibition, as I view it, is a moral basis, and such a basis should be supported by ethical and moral laws and methods. The first people to support the Constitution should be the people that desire a measure originating in moral influences and based upon moral foundations [applause], and this bill I fear tends to circumvent the Constitution. This bill is intended to "nullify" the Constitution, if I may use that word.

Now, it is said that Mr. Taft, the judicial council, and others recommended this bill. There have been a number of bills relating to commissioners, and giving them some of the functions and powers of justices of the peace, and those bills have been before the committee—not this bill, but bills somewhat similar—for the past four or five years; but when brought to the book, viewing them as statesmen and lawyers, irrespective of politics, irrespective of any hysteria, we have felt that they were not supported by the organic law.

Now, if you wish to change the law so as to give commissioners the judicial powers of justices of the peace, that is another question; but the recommendations made by these gentlemen, including Mr. Taft, and no one has greater respect for him than I have, never centered in a particular bill, but simply asked that the general subject be considered, and we have considered it. [Applause.]

In conclusion, I think this bill will serve no appreciable purpose in reducing the congestion in the courts; will not alleviate but aggravate congestion; and will not simplify but confuse procedure. It is, unless amended, a formidable obstruction to expedition of the administration of criminal law. It will open up a tempting field for misfeasance or malfeasance in office. From 1,200 to 2,000 commissioners, burdened with a work necessarily involving a congeries of temptations, with inadequate statutory pay, will yield no good results. So, unless appropriate and adequate amendments can be obtained, I am unable in conscience and reason to support this bill.

I have no time to discuss the right of trial by jury. I must comment, however, that the bill in its present form, while not abrogating this right, has thrown such obstacles in the way of securing it that it will be almost negligible in practice. The bill would keep the promise to the ear but break it to the hope.

Mr. GRAHAM. Mr. Chairman, I yield five minutes to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Chairman, the last speaker said that the crime commission did not recommend this bill, that they had recommended generally——

Mr. MONTAGUE. The gentleman misunderstood me, I did not say that they had not recommended, I said that this was not the original bill, that it had been changed a dozen times.

Mr. MICHENER. I understood the gentleman correctly. I call attention to the message submitted by the President of the United States on the 13th day of January, 1930, found on page 25 of the printed copy, where the gentleman will find the material provisions and practically all of the language in the bill which we are to-day considering.

Section 4 of the bill originally recommended has been eliminated. Section 4 in the original bill recommended by the crime commission was as follows:

> In case the report of the commissioner is excepted to and trial by jury demanded, the district attorney may elect whether to go to trial on the complaint or information or to submit the case to a grand jury; and in case the grand jury finds an indictment, the prosecution shall then proceed upon such indictment.

The subcommittee did not favor that provision. However, the bill which we have before us and which we are now considering is otherwise in every material respect, and in practically the same language as the bill suggested by the crime commission with the approval of the Attorney General. The present bill, as perfected by the committee, was submitted to the crime commission and to the Attorney General and the material committee amendments found in the bill were suggested by the crime commission, and we have been asked to pass the bill with the amendments as here presented.

If I were drafting this legislation to meet my own views in every particular, I should amend the bill in some places, yet I hesitate to make alterations inasmuch as the crime commission is composed of some of the outstanding lawyers and jurists of the country, and this commission had worked long on this legislation. A splendid brief covering the law involved has been submitted to the Judiciary Committee. Two members of the commission appeared before the subcommittee on several occasions and made several arguments in favor of and explanations of the provisions of the bill. The commission thoroughly believes in its workability and they are satisfied beyond question of its legality.

The principles involved in this bill are not new to the Committee on the Judiciary. We have been trying for several years to work out some plan that would be constitutional and that would permit of the disposition of petty offenses in a manner that would not require so much of the time of the district courts. The American Bar Association has devoted much time to the consideration of this subject. In fact, a committee from that association appeared before the Judiciary Committee during the Seventieth Congress and advocated a plan which in a way resembled the plan here suggested, which, however, contained several features with which the committee could not agree so far as the constitutionality was concerned. Since that time conditions in the courts have become more congested, and the necessity for relief is more urgent. It is true that the crime commission and the Judiciary Committee are attempting to work out some plan whereby the existing machinery of the courts might be utilized, none of the constitutional rights of the accused abridged, the rights of the public protected, and the ends of justice subserved. In its report the commission suggests several plans, but considers the one here proposed the most feasible, practical, and about which there can be the least question. Of course, we might create innumerable Federal judges or we might create inferior courts, and the time may come when these inferior courts will be necessary, yet it seems to me that this would be a poor policy to pursue at this time.

This legislation will be an experiment. The Congress is in session each year and we are creating no new offices, neither

are we setting up any new machinery, and if this plan is not a success it can easily be abandoned. If it is partially successful, future legislation will perfect it. I would therefore say that the sensible thing to do is to give it a trial.

I have not heard anyone on the floor to-day seriously question the constitutionality of the proposed measure, with, of course, the exception of the gentleman from Virginia [Mr. TUCKER]. He concedes that under the Constitution the right to trial by jury is a privilege to be enjoyed by the accused, but that inasmuch as it is a privilege he may waive the privilege. It is not forced upon him; it is optional with him.

The distinguished gentleman from Virginia says that the entire bill is unconstitutional, with the exception of one sentence. I hardly think he means that. He is a good lawyer, believes thoroughly in the Constitution, knows its scope and limitations as well as any man in this body, yet we all understand that the Constitution is susceptible of many interpretations. There are those who would interpret it strictly in the light of conditions as they existed at the time of its formation, while there are others who feel that it is a living thing, that it must be construed in the light of present-day conditions, and it seems to me that the courts are recently tending toward the last position.

I would call the attention of the gentleman from Virginia to the case of Patten, and others, against the United States, decided on April 14, 1930, by the Supreme Court of the United States. In the light of this decision there can be no question about the right of a defendant to waive a jury trial, and had this question been settled a number of years ago I feel sure that legislation would have been before the Congress ere this in an attempt to do that which this bill attempts to accomplish. No right is taken away from a defendant by this bill. He is permitted to plead guilty if he desires, and he thereby waives the right to trial by jury, and no one contends that the public has such an interest in the citizen that it could require a jury to pass upon his guilt before the court could pass sentence.

The commissioner is an adjunct to the district court. Anything done before the commissioner is done indirectly in the court. The accused is not placed in jeopardy before the commissioner. He is only in jeopardy when he is before the court having power to deprive him of some of his constitutional rights. I do not like the provision of this bill which requires the accused to take affirmative action to secure a trial by jury, yet I am convinced that in the light of the Supreme Court decisions that the Constitution does not prevent such a requirement.

The President is charged with the enforcement of the laws. This enforcement is brought about through the Department of Justice. It seems to me that there is no question but that the President and the Attorney General are attempting to enforce all the laws, including the prohibition laws. They have approved a program of proposed legislation.

The President through a message to Congress has brought to us this specific bill, has asked us to enact it, and his Attorney General insists that this will aid in the enforcement of all laws, and I, for one, am willing to forego any notions which I might have about the niceties of language or the advisability of amendments, and to give these officials the assistance they are asking for. It has been a long time since January 30, 1930, when this request was made. Indeed, the President has recently been called upon to again ask Congress for this assistance, and are we to deny this legislation because individually we have doubts as to whether or not it will accomplish the desired purpose?

The three bills passed on yesterday would not have been reported favorably by the committee without this bill. This is the principal bill in the program. Personally I agreed with the Attorney General that the Jones law should not be interfered with unless it was necessary in order to make it possible for the partial disposition of minor infractions of the law before the commissioners. Those believing in the enforcement of the law voted for the Stobbs bill, and, of course, those who opposed prohibition and who would do what they can to weaken the enforcement laws voted for the bill. I am sure that there are many in this body who voted for the Stobbs bill, including the 1-gallon provision, only because that was the language used by the crime commission, and we all appreciate that if the Stobbs bill becomes a law and that if a mistake has been made in designating the quantity of liquor, that this mistake can readily be remedied by the Congress.

This bill has no reference to the prohibition law. It affects all offenses where the penalty can not exceed a $500 fine and six months in jail without hard labor. This is an innovation and it is a modernizing of our system of trials for petty offenses in the Federal courts. It makes the procedure much like the procedure in some State courts at this time, and if it becomes a law it will be perfected and further developed, but in my judgment will be so satisfactory that its repeal will never be considered. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MONTAGUE. Mr. Chairman, how much time have I remaining?

The CHAIRMAN. The gentleman has 19 minutes remaining.

Mr. MONTAGUE. I yield 15 minutes to the gentleman from Pennsylvania, the chairman of the committee [Mr. GRAHAM].

Mr. GRAHAM. Mr. Chairman——

Mr. CRISP. Mr. Chairman, will the gentleman from Pennsylvania, before he begins, yield to me for a question?

Mr. GRAHAM. I will.

Mr. CRISP. The House has the greatest confidence in, and respect for, the gentleman's legal opinion. I share that confidence, and therefore I desire to ask him a question. Under the bill, if a judge finds on the report of the commissioner that the defendant is guilty, and the defendant then asks for a jury trial, would it be possible to have that judge disqualified to try the case on the ground that he was not impartial, having expressed an opinion as to the guilt of the defendant?

Mr. GRAHAM. I think I would be obliged to answer that question by saying that a judge who had taken that course and declared the defendant guilty ought not in good conscience and fairness sit in the subsequent trial of the man on the question of his guilt or innocence.

Mr. CRISP. Mr. Chairman, my friend does not answer specifically as to whether or not that would be ground for disqualifying the judge. If so, I wanted to follow that up with another question. If it disqualified him, would not the effect of this bill be to hinder, delay, and congest the courts rather than expedite them, because it would upset the whole judicial procedure in the courts in that district.

Mr. GRAHAM. Certainly. If it were a ground for disqualifying the judge as being unfit to try the case, then there would have to be another judge called in, and the case proceed before that other tribunal. To that extent it would be a hindrance and not a help.

Mr. HAMMER rose.

Mr. GRAHAM. I can not yield now to anyone until I am through.

Mr. Chairman, I have taken the floor for the purpose of saying only a few words. I am in this position to-day: I oppose this bill. I felt that it was useless, and that had it not been for the backing seemingly of a body foreign to the legislative body under the Constitution, the bill would have been changed or it never would have been adopted. I mean to say now that it was pointed out that the only thing complained of and sought to be changed was the matter of congestion. To me it appeared that the easiest, best, and most appropriate way of removing that congestion was to appoint more judges. [Applause.] Why do I say that? Because one of the members of our committee who worked with indefatigable zeal in the preparation of his statistics, the gentleman from West Virginia [Mr. BACHMANN], showed that the congestion existed only in certain spots. If it existed in certain spots, it seemed to me wholly untenable and unjustifiable for us to adopt a system of invasion of the established practices of jurisprudence to remedy those spots by a bill that covers the entire country. [Applause.] That seemed to me to be useless. However, the bill did contain things when it was recommended from the commission that no man in this House would ever have been brought to support or vote for. Largely those things were taken out of the bill. One was clothing the district attorney with the power of saying to the defendant, "If you come here and claim a trial by jury, although you have been tried in a minor proceeding, you will be tried by indictment and for a felony"—a club to be held over the accused to coerce him into submission to this new mode of procedure.

I can not in good conscience approve of the merits of this bill. While I voted to send it out before the House so that the House might pass upon it and dispose of it as the House thought proper, I did not tie my hands or silence my tongue to say what I thought of the measure upon its merits. I want to preserve, as I hope I shall, the respect of my fellow Members of the House for me and for my opinions as expressed in my capacity as a Member of this body. It is repugnant to me to find that men will yield their private opinions to the dictation of an outside body that neither by law nor the Constitution has a right to say what shall come from this body. [Applause.] For that reason, as well as the fact that the bill in and of itself does not give the accused a fair chance, it is repugnant to me; and if there is one thing we ought to preserve—and the tendency now is to forget it—it is that every accused person is entitled to a fair trial, as the Constitution commands. [Applause.]

What is the position of a man who has been forced to plead before a commissioner—remember, he has no choice—either guilty or not guilty? What power is there in the Constitution or in the law to compel a man to plead before a commissioner one way or the other? He has a right to waive a trial and go to the higher tribunal and there have his case disposed of. [Applause.]

My friend from West Virginia [Mr. BACHMANN] called my attention to that, because it had escaped me until yesterday, and it is one defect in this bill that ought to be cured by amendment or the bill ought to be defeated. Again I say it is not giving a man a fair chance to start him out with a finding in the evidence and recommendation by a commissioner that he is guilty, and that he ought to be sentenced, or, proceed one step farther, and have him brought before a court, and, as my friend from Georgia [Mr. CRISP] said in his question, there have his guilt or innocence passed on. Then he has the pitiful chance of notifying that he appeals for a trial, a fair trial such as the Constitution guarantees, but how in the name of justice can a man have a fair trial who appears before a jury with the stone hung about his neck of a conviction by a judge, and particularly if that judge is to sit and try him before the jury? [Applause.] I say, therefore, it is unnecessary to have this bill. All of the prior legislation that we enacted yesterday is good law and will stand as good law, whether we adopt this bill or not. I respectfully suggest to my colleagues that in good conscience and fair judgment I ought to make this statement before you as a member of the Committee on the Judiciary. [Applause.]

I yield back the remainder of the time allotted to me by the gentleman from Virginia.

Mr. MICHENER. Mr. Chairman, I ask unanimous consent to control the remaining time.

Mr. GRAHAM. I want to yield it to my friend, Mr. MICHENER.

The CHAIRMAN. It can be done only by the consent of the gentleman from Virginia, who yielded the time. It is against the rules to parcel out yielded time.

Mr. GRAHAM. I yield back the time given to me by the gentleman from Virginia which I did not consume. As to the remainder of the time on this side, after what I have said, I desire to yield the disposition of it to the gentleman from Michigan [Mr. MICHENER].

Mr. MICHENER. Mr. Chairman, a parliamentary inquiry. Of course, we have with us an unusual spectacle, as the Chair appreciates. The chairman of the committee has assumed control of the time on a bill on the floor as a proponent of the bill. He controls the time and justifies the bill until after debate is closed, and then takes time from the other side and makes his speech against the bill.

Mr. SABATH. Mr. Chairman, I think the statement of the gentleman from Michigan is manifestly unfair and unjustifiable. I think the insinuation made by the gentleman from Michigan is unjustifiable and unwarranted.

The CHAIRMAN. The gentleman from Illinois is out of order. The gentleman has not been recognized by the Chair for the purpose of making an address.

Mr. BACHMANN. Regular order, Mr. Chairman.

The CHAIRMAN. The Chair thinks that the gentleman from Pennsylvania under the unanimous-consent agreement was given one hour and a half. Under the rules of the House in the Committee of the Whole House he may yield any of that time he may wish, but he can not yield further beyond that time, and as the gentleman from Michigan was yielded time under the rules, he can not yield to anyone else.

Mr. MICHENER. I ask unanimous consent that I may yield time to some gentleman in favor of the bill.

Mr. O'CONNOR of New York. Mr. Chairman, I raise the point of order that it is not in order for the gentleman from Michigan to make such a request in the Committee of the Whole.

Mr. GRAHAM. I yielded to the gentleman from Michigan.

Mr. MONTAGUE. I yield two minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

The CHAIRMAN. The gentleman from Pennsylvania is recognized for two minutes.

Mr. GRAHAM. Mr. Chairman, I want to say that everybody in my committee knew exactly where I stood, and I did not want a false impression to be given to this House; and I have maintained a strictly honorable position in regard to the giving out of time. [Applause.] Every man that I have yielded time to has spoken for the bill, not against it; every one of them.

Mr. MONTAGUE. I yielded to the gentleman out of the time allotted to me.

Mr. GRAHAM. I thought it might be considered admissible out of the time yielded to me to make an explanation, and I asked the gentleman from Virginia to give me time in order to make this explanation out of his time. [Applause.]

Mr. MONTAGUE. That is a correct statement by the gentleman from Pennsylvania.

Mr. O'CONNOR of New York. Mr. Chairman, I make the point of order that the unanimous-consent request propounded by the gentleman from Michigan [Mr. MICHENER] could not be passed upon by the Committee of the Whole.

The CHAIRMAN. The Chair would suggest that the unanimous-consent agreement entered into by the House can be carried out by the gentleman from Pennsylvania by retaining the time and continuing to allot it as he has done heretofore.

Mr. GRAHAM. Mr. Chairman, I yield two minutes to the gentleman from Oklahoma [Mr. MCKEOWN].

The CHAIRMAN. The gentleman from Oklahoma is recognized for two minutes.

Mr. MCKEOWN. Mr. Chairman, I find myself in a very peculiar situation. I could not get any time over here on the Democratic side because I was not against the bill, and I could not get any time over there on the Republican side because there was not enough to go around.

What are the facts about this matter here? Here are the facts: The President of the United States sent down here in February a report of the commission—for which the Government appropriated $250,000—and recommended certain legislation.

What took place? The gentleman from Pennsylvania [Mr. GRAHAM] was against it, and he granted hearings on bills to modify the eighteenth amendment, and they took up 60 days on the hearings without any idea of doing anything about prohibition, and then when the President comes in the second time, and then there is further delay while arranging to bring in this bill. If you vote down this bill, what kind of a situation are you in? The chairman seems to be willing to have this bill voted down.

Mr. BACHMANN. Mr. Chairman, will the gentleman yield?

Mr. MCKEOWN. No; I can not yield. He has got what he wants. He has the Jones bill modified, and so he wants to defeat this bill; but you gentlemen over here will be in a bad fix with your constituents.

Mr. BACHMANN. The gentleman has made a misstatement. Is it not a fact that Mr. CHRISTOPHERSON's subcommittee, of which I am a member, has had this bill under consideration for two months?

Mr. MCKEOWN. You have been undertaking to agree upon some bill that you could support and bring it in here. You are not fooling me about it. You would not bring in this bill before. You had six months. The President of the United States recommended legislation. Then you brought in the Stobbs bill, and when you got that bill through you asked that this bill be defeated on technicalities. That is because you do not want to support this legislation.

I want to say to you men who believe in the prohibition law that you have had a great hearing, you have had the country all worked up, and the Literary Digest has been making a poll; and then when this legislation comes out and the news of it goes out to the country that you have backed up and modified the Jones law, and defeat what is asked for enforcing the prohibition laws then you do not give your people what they want.

The President asks for "bread and you give him a stone." If you want to get wet, get wet; or if you want to get dry, get dry. I do not believe in voting both wet and dry. [Applause.]

Mr. GRAHAM. Mr. Chairman, I yield two minutes to the gentleman from North Carolina [Mr. JONAS].

The CHAIRMAN. The gentleman from North Carolina is recognized for two minutes.

Mr. JONAS of North Carolina. Mr. Chairman and ladies and gentlemen of the committee, there ought not to be much trouble for any member of this committee who has been following what has been going on here for the last 24 hours to know what is about to happen.

The President of the United States, who is charged with the duty of enforcing the eighteenth amendment and the prohibition act; the Attorney General of the United States and the crime commission appointed by the President of the United States, in cooperation with the Judiciary Committee of the House, worked out a program, and this bill is the heart of that program. There is not any question in the mind of any man who has followed what has happened here in the last 24 hours but that what is about to take place is that the wets of this House, instead of passing the bill that is the heart of

this program first, have maneuvered through the House three other bills in favor of weakening the prohibition statutes of America, as they think, and then scuttling the ship when it comes to the enactment of the very heart of the program.

Mr. WARREN. Did not the gentleman from North Carolina vote for all three bills?

Mr. JONAS of North Carolina. I voted for all of them, and I am carrying out my promise in good faith. We promised the administration, we promised the Attorney General, we promised ourselves that we would stand here and support this program as a whole.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. JONAS of North Carolina. I do not refer to the gentleman from New York and the minority members of the committee who are opposed to the program, but I am talking about the majority members of the committee who have been standing by the President and by the Attorney General and by the crime commission in giving them the legislation which they say is necessary to enforce the law.

Mr. O'CONNELL. Will the gentleman yield?

Mr. JONAS of North Carolina. I yield.

Mr. O'CONNELL. We did not do that on the veto message the other day, did we?

Mr. JONAS of North Carolina. Oh, no. I know the gentleman will never forget that. [Laughter and applause.] If I were in the gentleman's place and that is all the consolation I had gotten out of this Congress, I would be quiet about it.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. JONAS of North Carolina. No; I can not yield now.

Now, ladies and gentleman of the committee, the chairman of the Judiciary Committee, everybody knows, is a wet. [Applause.] He has gotten up, after controlling the time of the proponents of the measure and has used his influence to defeat it, and I hope the Members of the House will stand by this program.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

Mr. MONTAGUE. Mr. Chairman, I yield the remainder of my time to the gentleman from Texas [Mr. SUMNERS].

The CHAIRMAN. The gentleman from Texas is recognized for eight minutes.

Mr. SUMNERS of Texas. Mr. Chairman and ladies and gentlemen of the committee, I would not be candid if I said I believe this bill is as bad as the critics of the bill seem to believe, and I would not be candid if I said I believe it as good a bill as the advocates of the bill say they believe it to be. I think there are two or three very laudable objects in mind of those who propose the legislation. One is, if possible, to take from the district courts their police responsibilities. I would like to see that done, but it seems to me this particular piece of legislation is not ready for adoption, to say the least. It may be that something can be worked out along this line. I do not know. It is clear that a defendant has the constitutional right to waive a jury. In this case, however, under the scheme of this bill, as I understand it, the law waives the jury in the first instance, and a defendant must do an affirmative thing to get a jury.

Another thing with reference to the plan of this bill is that it provides that a defendant, if dissatisfied with the judgment of the judge, appeals from the judgment of the judge to a verdict of the jury in that judge's court. I do not believe that will work. There are other serious objections to this plan as it has been developed in this bill. I have great respect for Mr. CHRISTOPHERSON, the author of this bill, and I have much interest in the object of this bill. I would like to see the district courts of this country freed of their police jurisdiction. We have the difficulty in dealing with this proposition of being handicapped by a constitutional limitation that should never have been in the Constitution.

I do not believe there should have been placed in the Constitution limitations upon the judgment of generations as they come to responsibility with reference to how powers conferred shall be exercised, but it is there. By this bill we are undertaking as a matter of fact to make police judges of commissioners. It is in the back of the head of the proponents of the bill that the commissioners will decide the questions of guilt or innocence, punishment, and so forth, and that the judge will understand that Congress is winking an eye at him and suggesting to him, "We will be glad if you adopt the determination of the commissioner." That is the fact about it. If it is not, then there is nothing in the bill at all except to complicate and further delay procedure. But the commissioners to whom it is proposed to give this power are not governed by any sort of regulations or restrictions as to qualification which qualify them to exercise these powers. We are undertaking to make inferior judges of commissioners with reference to whom we impose no qualification which such judges should have. They do not have to be lawyers. I think that is clear.

That is all I want to say about this bill—it has been thoroughly discussed—except to say that if I can get recognition by the Chair I am going to propose to refer this bill to the Judiciary Committee of the House.

Mr. SPROUL of Kansas. Will the gentleman yield?

Mr. SUMNERS of Texas. In just a minute I will yield. I do not know whether the Judiciary Committee can do anything with the proposition or not. I do not know whether the author of this bill would feel discouraged beyond the possibility of working at it again or not, but I am certain in my own mind that this bill as introduced and as it has been amended ought not to be passed.

Mr. CHRISTOPHERSON. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. CHRISTOPHERSON. Does the gentleman not think, after it has been considered for three months by a subcommittee and by the entire Judiciary Committee, after several conferences with the Attorney General and the Law Enforcement Commission, that we have threshed it out pretty well and that we might just as well vote on it to-day?

Mr. SUMNERS of Texas. I have such a high regard for the author of the bill and his legal ability and for the value of this day's discussion that I think if he had a little more time with the suggestions resulting from this discussion he could do better, and I am willing to try to help him.

Mr. SPROUL of Kansas. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. SPROUL of Kansas. If this bill were to become a law and a defendant were to plead guilty before a commissioner, and a report was made by the commissioner of that plea to the district court where judgment would be passed, would the court have before it in such case any evidence of aggravation of the crime or in mitigation of the crime, which are indispensable elements in the trial of any case?

Mr. SUMNERS of Texas. It is hoped that in the various circuits rules will be provided under which a plan of operation will be worked out which will make it possible for the district judge to have some data to work upon. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. GRAHAM. Mr. Chairman, I yield three minutes to the gentleman from Michigan [Mr. CRAMTON]. [Applause.]

Mr. CRAMTON. Mr. Chairman, ladies and gentlemen of the committee, having only three minutes, I will be glad not to be asked to yield.

Mr. George W. Wickersham, former Attorney General of the United States and the chairman of the President's Law Enforcement Commission, not noted as a radical dry by any means, squarely indorses this legislation and states it is not novel. A few days ago, appearing before the Committee on Appropriations of this House in support of an estimate for funds for the work of that commission, he stated:

> We did also recommend certain modifications in the law. We took this question of prosecution, took up the matter of congestion in the courts, and we took up the matter of the method of the administration of the prohibition law, and we recommended the passage of this bill involving no novel principle, but involving a procedure before the United States commissioners.
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> There has been a great deal of talk about that, much of which is utterly and absolutely without any valid foundation.
>
> The second judicial conference, held under the direction of the Chief Justice of the United States and the judges from every circuit, in 1923, recommended the use of the United States commissioners for the prosecution of petty offenses. The American Bar Association, in 1928, in a report which you will find printed in the annual report of that organization for that year, submitted a very elaborate report in support of that proposition. The Association of the Bar of the City of New York did likewise.
>
> We recommended the use of the United States commissioners for the prosecution within the district court, always bearing in mind that you can not make a judge out of your commissioner; he can only be a first aid to the judiciary, but with a provision that in the prosecution of petty offenses an information might be laid and brought for hearing before the commissioner, and he transmit the evidence, with his report on it, to the United States district judge, who, as he got to it, could dispose of the case.
>
> We felt that any assistance in the prosecution of petty offenses of that kind would greatly relieve the court and it would lead to a more rapid disposition of them, and it would lead also to a better discrimination between actual offenses and the ordinary run of petty crimes.

He further said:

There was at once a great outcry that the right of the people to trial by jury was being impinged upon, and still the welkin is made to ring with that cry. As a matter of fact, those petty offenses never were triable by a jury at common law. In most of the States offenses of that character are tried by a judge without a jury. In the State of New York alone, if you observe the operations of the magistrates' courts and the court of special sessions, you will see that thousands of cases are being disposed of there and people are being given sentences, even up to a year or more, by a judge without a jury, and nobody thinks of complaining that anybody's inherent liberties are invaded by those proceedings.

There has been a perfect mare's nest and kicking up of dust over this subject which, in my judgment, is without any foundation at all.

In a very recent decision the Supreme Court of the United States has paved the way for the proper consideration of that subject. In the case of Patton *v.* the United States, very recently the Supreme Court held that a man who was being tried for a felony and who, when a juror was taken ill, had agreed to go on with 11 jurors and had proceeded and been convicted, and then objected that his constitutional rights were impaired, must be held to his stipulation and that there was no impairment of his constitutional rights, and in the course of that decision the court took occasion to say they would reserve the point as to petty offenses.

My own belief is that, in view of the ruling of the Supreme Court in the Shick case, which was a case of a very small offense but in which, nevertheless, the principle is the same, together with the opinion in the Patton case, the superior court will hold that these minor offenses which are punishable by a fine not exceeding $500 or six months' imprisonment may be tried by a commissioner.

Of course, when you come to mix in it the question of prohibition some find their judgment affected thereby. Politically I can not see that the Literary Digest poll signifies very much, in view of the fact that 80 Congressmen who have gone up for renomination in the last few weeks—nearly all of them drys—have all been renominated. [Applause.] More than that, the senatorial contests do not indicate that there is any diminution of the dry sentiment of the Nation. The sentiment of the Nation not only is in support of the enforcement of the law, but it is in support of the enforcement of the prohibition law. [Applause.] When the Attorney General of the United States, in whom we all have great confidence, and the former Attorney General, Mr. Wickersham, at the head of this Law Enforcement Commission, unite in indorsement of this program, which has been indorsed heretofore by the bar association of the Nation, I do not believe the people of the Nation who want law enforcement will like it if this Congress refuses this change in the law. I hope the bill passes. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. GRAHAM. Mr. Chairman, I yield two minutes to the gentlemen from Ohio [Mr. MOORE]. [Applause.]

Mr. MOORE of Ohio. Mr. Chairman, I have already spoken and I should not say another word were we not in an unusual position. I hold in my hand the report on H. R. 9937 made by the chairman of the Judiciary Committee. A majority of the Committee on the Judiciary voted to report this legislation, and, as the gentleman from North Carolina said, this bill was understood to be a part of the program. I think those of us who are on the Judiciary Committee had the right to expect that our chairman in good faith—who said he voted to report the bill—would write a report and stand by it; otherwise some of the friends of the legislation should have been permitted to write the report. [Applause.]

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. GRAHAM. Mr. Chairman, I yield myself two minutes, the remaining time. [Applause.]

No gentleman with proper and honorable instincts will question my position or attitude on this question to-day. [Applause.] In the committee it was expressly stated time and time again, "Yes; you have the right to file a minority report; you have the right to vote for the bill or the right to vote against it. We are reporting it out as the will of the committee." I endeavored, as far as possible, through the clerk, to make such a report as would represent the action of the committee. My individual right to explain my position no honorable gentleman will assail me upon, for I have said nothing which was wet or dry. I have pointed out the defects of this bill, which I, as a lawyer, must recognize and can not conceal. [Applause.]

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read as follows:

Be it enacted, etc., That in prosecutions by complaint or information for casual or slight violations of Title II of the national prohibition act the accused shall plead to the complaint or information before the United States commissioner before whom he may be taken pursuant to section 595, title 18, United States Code. If he pleads guilty, the commissioner shall transmit the complaint and warrant to the clerk of the district court, with a report of the plea, and thereupon judgment of conviction shall be rendered and sentence imposed by a judge of the court.

The CHAIRMAN. The Clerk will report the committee amendment.

The Clerk read as follows:

Committee amendment: On page 1, beginning in line 3, strike out the words "casual or slight violations of Title II of the national prohibition act" and insert "petty offenses."

Mr. LAGUARDIA. Mr. Chairman, I rise in opposition to the committee amendment.

Mr. Chairman and gentlemen, I did not intend to say a word on this bill, but statements have been made on the floor of the House as to the attitude of some of the members of the committee and the procedure taken by the committee.

I signed my name to the minority report and I stand by that position. I was perfectly willing to have a full and frank discussion on all of the bills. I was also quite willing to take the bills up in the order generally understood in the committee. I leave it to every one of my colleagues on the committee in favor of this bill if I was not in favor of taking up this bill first and disposing of it yesterday when the question came up. I wanted to do that because this bill is really the pivotal bill of the whole set and is the bill over which there is a great deal of controversy.

Now, gentlemen, I regret exceedingly that in the last moments of the splendid debate on the bill, fairly and ably presented by both sides of the question, the debate has degenerated into a debate of an entirely different issue. You can not, in all fairness, come here in the last moments, as did the gentleman from Michigan, and seek to inject a new issue or to becloud the real issues.

Mr. MICHENER. Which gentleman from Michigan?

Mr. LAGUARDIA. Not the gentleman; not my colleague on the committee; I refer to Mr. CRAMTON.

Gentleman, let me point out that the provisions of this bill refers not to any one class of people; it is intended for all violators of law. Think of your farmer who may happen to violate one of the many provisions of the agricultural law or one of the many provisions of the plant quarantine regulations. Think of your grocer who may have a sign on oleomargarine which is not sufficiently large; think of your grocer who may have a bottle of catsup on his shelves not properly labeled as containing benzoate of soda; these men will be made to suffer under the unfair procedure provided in this bill.

I appeal to all who are interested in good legislation not to prolong the agony. Let us put an end to this impossible bill at once. Legal talent can not make this bill constitutional. Legislative ingenuity can not make it sane, sensible, or practical.

The bill speaks for itself. You have heard able constitutional arguments by the gentleman from Virginia [Mr. TUCKER]. You have heard sound, conservative statements from many Members of this House who are opposed to this bill and who can not be charged with having any ulterior motive. Their motive can not be questioned. Rather than censure the conduct of the distinguished chairman of our committee, I say it is refreshing to see a man in this day and age who has the courage of his convictions. [Applause.]

Since when is a bill to be passed on the wet or dry stand of its sponsors and not on its own real merits? The gentleman from Michigan [Mr. CRAMTON] has not referred to the merits of the bill. He referred to prohibition. He, and he alone, brought prohibition into discussion. He would disqualify every Member who does not agree with him from taking a stand on legislation. Because a Member happens to be opposed to prohibition, according to the views of the fanatical dry such Member is to be entirely disqualified from participating in debate. What intolerance!

I am opposed to this bill on its merits. As I stated in my minority report, the bill will not relieve congestion in the Federal courts. The procedure provided in the bill is not practical. Its purposes are to expedite procedure and relieve congestion in the Federal courts. It will accomplish neither. I am convinced that the procedure provided in the bill will cause confusion, loss of time, and endanger the administration of justice.

The plan to create a separate tribunal for the trial of petty offenses in the Federal court has been the subject of discussion and study for a long time. The creation of such a tribunal in and of itself ordinarily is a simple matter; but owing to specific provisions in the Constitution, no plan other than the ap-

pointment of judges for life has been found constitutionally sound. The question of giving United States commissioners jurisdiction has been repeatedly suggested and always meets with constitutional objections, in many instances recognized by the proponents themselves.

The circuitous, indirect method for the trial of persons charged with a petty offense in the bill reveals the uncertainty of the entire plan. It is sought to make a commissioner a trial judge, and yet he is no judge. It seeks to relieve Federal judges from the trial of petty offenses, but the judge is nevertheless required to determine the guilt or innocence of the defendant. It attempts to expedite final disposition of the cases, and instead it prolongs and delays such disposition. Its purpose is to avoid a trial by jury, yet such trial is made available in the nebulous offing. The bill imposes the duty and responsibility of punishing offenders on the district judge and takes from him the opportunity of hearing and seeing the defendant and all the witnesses. The bill authorizes the commissioner to hear the testimony and recommend the punishment, but dares not give him the authority to make findings. The bill authorizes the commissioner to recommend the punishment, but the Constitution prevents him saying whether the defendant is guilty or innocent. The bill is highly technical in its provisions of criminal jurisprudence, yet it is drafted in the phraseology and nomenclature of the cross-word puzzle.

Section 2 provides for a hearing for all persons charged with the commission of a petty offense before the commissioner who in turn will make a report and a recommendation to the judge, but can not submit a finding of fact or a finding as to the guilt or innocence of the person whose punishment he may recommend. It therefore follows that the judge must necessarily read every word of the testimony, carefully scrutinize the record, and closely examine every ruling of the commissioner. If he fails to do that, it will simply result in rubber-stamp justice. If he does so examine the record and passes upon the guilt of the persons charged, it becomes a trial by correspondence. Either system is not only unconstitutional but manifestly unfair to both the defendant and the Government.

Under petty offenses as defined in another bill, H. R. 9985, reported favorably from the Committee on the Judiciary, the question of the defendant being habitually engaged in violation of law is a necessary element not only in determining the guilt or innocence of a defendant but also as to the punishment which should be imposed, yet under the bill the commissioner has not the authority or power to make any finding on this point. Again, the judge will be required to read all of the testimony, without having the benefit of sizing up the witnesses, and is required to assume the responsibilities of punishing a person to the extent of six months in jail without ever having seen the defendant. A casual study of the involved provisions of the bill will immediately disclose that it can not accomplish the purpose for which it is presented to Congress, to wit, saving time, expediting procedure, and relieving congestion in the Federal courts.

In the cases of pleas of guilty a comparison of the present system, where the defendant appears before the judge and enters his plea and the case is finally disposed, with the involved provisions contained in section 1 reveals that in such cases no time is saved.

In the cases of pleas of not guilty the following table discloses the procedure under the provisions of this bill and under existing practice:

PROCEDURE PERTAINING TO PETTY OFFENSES

Under provisions of H. R. 9937	*Under existing practice*
1. Complaint filed.	1. Complaint filed.
2. Plea entered.	2. Plea entered.
3. Hearing (trial) before commissioner.	----------
4. Report and recommendation made by commissioner to court.	----------
5. Defendant informed of commissioner's recommendation.	----------
6. Defendant has eight days in which to file exceptions.	----------
7. Case reviewed and examined by court.	----------
8. Court makes findings and approves or disapproves of commissioner's recommendation.	----------
9. Defendant informed of court's finding and sentence to be imposed.	----------
10. Defendant has five days in which to take exceptions to court findings and demand trial by jury.	----------
11. Defendant demands trial by jury, which nullifies all proceedings heretofore had.	----------
12. Trial in district court.	3. Trial in district court.

It is clear to anyone familiar with court proceedings that the plan proposed will not accomplish any of the results desired. The plan will be advantageous to the guilty and detrimental to the innocent.

The purpose of empowering the commissioners to do indirectly that which should be done directly is a clumsy attempt to avoid constitutional requirements. The defendant can not be deprived of a trial by jury in the first instance, and the defect is not cured by the remote and technical right of a trial by jury provided in the bill.

Even though an offense may be characterized as petty, there is a grave question if the punishment of a fine of $500 and a sentence of six months in jail is not such as to bring the offense outside of the category of petty offenses where a trial by jury is guaranteed by the Constitution.

Section 4 providing for the fees for the commissioner will create conditions in commissioner's court that will soon amount to a scandal. Imagine the commissioner haggling with the defendants and attorneys for pleas of not guilty to receive the fee of $5 instead of $1 fee for a plea of guilty.

The bill provides an entirely new system of criminal procedure. It is destructive of every fundamental precedent and custom in our Federal practice. The plan is a slipshod, ill-advised, impractical system of turning out stereotyped justice in quantity production regardless of the merits and the circumstances in each individual case. The proposed system is unfair to the defendant and unfair to the Government. This particular kind of procedure is not only unknown under present criminal procedure and the common law but never was heard of at all until advocated by the Commission on Law Observance.

Gentlemen, I appeal to all interested in good legislation, to all desiring to protect the dignity of our Federal courts, to vote against this bill.

Mr. DOMINICK and Mr. CRAMTON rose.

Mr. DOMINICK. Mr. Chairman, ladies and gentlemen of this committee, the debate has been going on three hours now and we have had all kinds of suggestions in regard to the bill. I agree with the gentleman from New York, who has just spoken. I do not believe if we sat here for weeks, with the ingenuity of the best legal minds in the House, this bill could be put in such shape as to meet the constitutional requirements and at the same time attain the object for which it was intended—that is, to relieve the congestion in the courts.

As far as I am concerned, Mr. Chairman, I yield to no man in respect of enforcement of law and preservation of order, and my position on this bill, however some might construe it, is not a position that would tend to obstruct the administration of justice; but my position, as I attempted to show in my feeble way in general debate, is to promote speed in the consideration of such cases and to relieve the congestion in the courts. There is no man who considers the question for a moment, in calmness and with reason, but what will tell you that when you increase procedure, when you lay down additional rules and regulations, when you enact additional statutes you are tending to increase the delay; you are tending to give the defendant in such cases, liquor as well as other cases, one of the chief weapons that a criminal in court has, and that is his right to get a continuance and a delay in the trial of his case.

The criminal always wants delay. That is what he is trying to get and that is how the criminal lawyer usually gets his reputation in criminal cases; that is, his adeptness in postponing the trial of his client from term to term until public sentiment has quieted down or until the matter has become forgotten and then he can go scot-free in court.

Mr. Chairman, in view of the situation of this bill as I see it, I believe we would be conserving time and that it would be in the best interests of the House to have the finality of it determined at once, and therefore, Mr. Chairman, I move to strike out the enacting clause of the bill.

The CHAIRMAN. The gentleman from South Carolina moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. CRAMTON. Mr. Chairman, I rise in opposition to the motion of the gentleman from South Carolina.

My good friend from New York [Mr. LAGUARDIA] charged me with being responsible for the making of his last speech. This is not a serious charge, because he makes a good speech and it takes very little to induce him to make one. But my friend from New York knows this, that if the House to-day votes down this bill it will be heralded all over the United States that Congress has gone wet. [Applause and cries of "No!" "No!"] Absolutely, and I do not want to be misunderstood. I know that there are men, like the gentleman from Virginia [Mr. MONTAGUE] who are opposing this bill on constitutional grounds, and not because of any attitude on the liquor question; but I am not speaking about what the fact is, but what the Nation will think is the fact.

Mr. O'CONNOR of Oklahoma. Will the gentleman yield?

Mr. CRAMTON. Yes.

Mr. O'CONNOR of Oklahoma. Does not the gentleman think it is about time we broke the precedent and looked at the facts rather than what the people back home think? [Applause.]

Mr. CRAMTON. There comes a time when we have to go home and talk to the folks.

I first sought to get recognition in support of the first committee amendment. I believe in the enforcement of all laws alike, and therefore I believe the committee was right when they recommended that the words be stricken out in line 4, so that it will apply to all petty offenses and not to prohibition alone. I want the enforcement of all laws. I do not believe in the enforcement of all laws except prohibition.

Mr. MOORE of Virginia. Will the gentleman yield?

Mr. CRAMTON. I will yield to the gentleman.

Mr. MOORE of Virginia. Is the gentleman aware of the fact that in 1927 and in 1928 the City Bar Association of New York, by an able committee and lawyers of the highest ability, proposed a plan to use court commissioners, and that that plan for some time has been before the Judiciary Committee, and does not the gentleman think that there are capable lawyers in the House who can correct the deficiencies in this bill if given an opportunity, and make it not only absolutely constitutional but a workable plan?

Mr. CRAMTON. If it is not, I have no objection to making it effective. The Judiciary Committee, it seems to me, had ample time, and I am willing to follow the majority of that committee and former Attorney General Wickersham and Attorney General Mitchell. I am aware of the report the gentleman refers to, and I referred to it when on the floor a short time ago. The Chief Justice and all the Federal judges of the Nation joined in the report back in 1923 urging legislation of this kind.

If the pending bill as reported by the committee is not effective, there will be other Congresses in session that can make it so. Very little legislation as sent out the first time is perfect. Let us make the start. [Applause.]

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. BACHMANN was recognized.

Mr. LAGUARDIA. Will the gentleman yield to me for a parliamentary inquiry?

Mr. BACHMANN. I will.

Mr. LAGUARDIA. Mr. Chairman, will the Chair inform the House the status of the motion that the gentleman from South Carolina [Mr. DOMINICK] made, striking out the enacting clause? Is not debate on the motion limited to five minutes on a side?

The CHAIRMAN. It is debatable like any other amendment. It will be disposed of before other amendments are offered.

Mr. LAGUARDIA. Is not time exhausted on this amendment?

The CHAIRMAN. There has been one speech of five minutes made since the motion to strike out the enacting clause was made. The gentleman from West Virginia has been recognized and this will close debate on the motion to strike out the enacting clause. The gentleman from West Virginia is recognized for five minutes, and then the question will recur on the motion of the gentleman from South Carolina.

Mr. BACHMANN. Mr. Chairman and members of the committee, I hope the motion of the gentleman from South Carolina will not prevail. I have been a member of the subcommittee that has been considering this legislation for the last three months, and I believe I have given as much time to the study of the bill and the question of congestion in our Federal courts as any other man in the House.

I want to say to the membership of the House that I signed the minority report of our committee against this bill. This is not the way for us to consider it, to strike out the enacting clause at this time. I, for one, am not willing to surrender my right to intelligently and conscientiously legislate as a Member of this House. Do we want the report to go out to the country that the Members of the House of Representatives, when it is considering a bill that can be perfected, and which will relieve congestion, if properly amended, have run away from it and struck out the enacting clause? [Applause.]

There is one amendment which I expect to offer which has the approval of some members of the Committee on the Judiciary, which will put this bill in shape so that it will take away the controversial features relating to the right of trial by jury, and the many other things that have been said here on the floor of this House, and if that amendment is adopted, I say to the Members of this House that every man can support it with a clear conscience, and we will be helping the President in his program and helping the Law Enforcement Commission, as well as protecting the right of every American citizen under the Constitution.

Mr. MONTAGUE. Does the gentleman think that if his amendment prevails and the bill passes with his amendment, it will expedite or relieve congestion?

Mr. BACHMANN. I think it will relieve congestion, because when a man has a right to waive a hearing before the United States Commissioner, he is on the same basis that he is now, and he gets his trial by jury in court, while the man who does not want to waive can have his hearing before a commissioner or plead guilty and the case can be expedited under the commissioner's procedure.

Mr. BROWNING. Is not the gentleman's amendment just leaving the commissioner where he is to-day? It does not add anything to him.

Mr. BACHMANN. Other than this, the accused taken before the commissioner does not have to go through the process of a hearing. The accused who does not want to waive his hearing will have his hearing expedited before the commissioner.

Mr. BROWNING. The commissioner has that authority now.

Mr. BACHMANN. He has not. There is nothing in this bill permitting the accused to waive a hearing.

The CHAIRMAN. The question is on the motion of the gentleman from South Carolina that the committee rise and report the bill with the recommendation that the enacting clause be stricken out.

The question was taken; and on a division (demanded by Mr. DOMINICK) there were—ayes 80, noes 128.

So the motion was rejected.

The CHAIRMAN. There is a committee amendment pending, which the Clerk has already reported. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. BACHMANN. Mr. Chairman, I offer the following amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Amendment offered by Mr. BACHMANN: Page 1, line 5, after the word "accused," insert "unless he desires to waive a hearing."

Mr. BACHMANN. Mr. Chairman and gentlemen of the committee, this amendment just proposed has this effect. As it is now under our Federal practice, if a man is taken before a United States commissioner charged with a misdemeanor he may waive a hearing and be held to a Federal grand jury, or be held to Federal court, where he can be proceeded against on information. That is the present practice. Under this bill without this amendment it takes away from the defendant the right of waiving a hearing. It says that he shall plead guilty or not guilty, he shall sit and listen to the evidence produced against him before he can take any action, and then he has the right within eight days to demand a trial by jury, and when he demands a trial by jury he is in the same position that this amendment will put him in if he waives a hearing in the first instance. It saves the expense of the Government, it saves the time of the commissioner, it saves the time of the defendant, and it does not take away from anyone his constitutional right of trial by jury, nor does it make his right of trial by jury dependent upon a notice from some United States commissioner.

Mr. TUCKER. Mr. Chairman, will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. TUCKER. Has the Enforcement Commission recommended this amendment?

Mr. BACHMANN. The Enforcement Commission has not recommended this amendment. They have recommended a program.

Mr. McKEOWN. Mr. Chairman, will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. McKEOWN. What are the words the gentleman uses in his amendment?

Mr. BACHMANN. "Unless he desires to waive a hearing."

Mr. McKEOWN. I think the gentleman better say "may waive."

Mr. BACHMANN. I do not care if my particular language is amended, so long as the right is preserved to waive a hearing. Mr. Chairman, may we have the amendment again reported?

The CHAIRMAN. Without objection, the amendment will be again reported.

The Clerk read as follows:

Amendment offered by Mr. BACHMANN: Page 1, line 5, after the word "accused," insert "unless he desires to waive a hearing."

Mr. BACHMANN. I think the amendment is all right. It is in accordance with the wording of the bill, because it says that he shall plead unless he exercises his right to waive.

Mr. MICHENER. Mr. Chairman, will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. MICHENER. As a matter of fact, if the gentleman's amendment is adopted, I wish he would state to me just what it does.

Mr. BACHMANN. If this amendment is adopted, instead of the defendant having to plead before the United States commissioner, instead of his sitting there listening to the evidence, instead of the commissioner taking the time and hearing the evidence, and then writing it out and making his report and then sending it to the clerk of the court, instead of waiting eight days for the defendant to come in and demand his trial by jury, this amendment will permit him to waive it in the first instance, and it goes to the same place as this commissioner bill finally puts him.

Mr. MICHENER. In other words, if this amendment be adopted, the effect would be that in these petty offenses the man could have a hearing through the commissioner or he could go directly of his own volition from the commissioner to the court without the intervention of the grand jury.

Mr. BACHMANN. That is right, and without demanding a trial by jury. It protects the defendant.

Mr. MICHENER. Personally I see no objection to the amendment.

Mr. BACHMANN. The effect will be that those who want to go before the commissioner, can go.

Mr. CRAMTON. Mr. Chairman, did the gentleman from West Virginia modify his amendment?

The CHAIRMAN. The gentleman did not modify his amendment in any way.

Mr. BACHMANN. Mr. Chairman, if it is not too late, I ask unanimous consent to modify my amendment by substituting the words "unless he waives a hearing."

The CHAIRMAN. The Clerk will report the amendment as modified by the gentleman from West Virginia, without objection.

There was no objection and the Clerk read as follows:

Amendment offered by Mr. BACHMANN: Page 1, line 5, after the word "accused," insert "unless he waives a hearing."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken; and on a division (demanded by Mr. CHRISTOPHERSON) there were—ayes 144, noes 21.

So the amendment was agreed to.

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New York moves to strike out the last word.

Mr. CELLER. Mr. Chairman and ladies and gentlemen of the committee, the amendment of the gentleman from West Virginia [Mr. BACHMANN] makes this bill a little clearer and relieves it somewhat of its taint. But as a lawyer and as a member of the Committee on the Judiciary I can not subscribe to it. It is the most absurd makeshift of legislation that was ever presented to the House.

The Judiciary Committee has been wrestling with this bill for months. There never was any real agreement. Confusion reigned during all the discussion, just as confusion reigns in this House to-day.

The main purpose in the bill is to relieve congestion in the courts. Admittedly there is congestion in only some of the courts. The report of the senior circuit judges makes this clear. Yet this bill is applicable to all courts, where there is congestion, and where there is not congestion. Even in the congested districts the plan will not ease the work of the judges and reduce the cases they must hear. They will still be called upon to determine the guilt or innocence of offenders, because the right is given to the accused, after his case has been heard by a commissioner, to have his case reviewed by the judge. If the recommendation of the commissioner runs against the accused he may demand his jury trial. Thus, instead of one case, there are two cases, or two hearings, in each instance, whether the defendant demands a jury trial or not.

Furthermore, every defendant found guilty by the commissioner would be a fool if he did not demand a jury trial. Actually, the congestion will increase.

Furthermore, if a judge approves the finding of the guilt of the defendant, and the defendant demands a jury trial, the attorney for the accused would have a perfect right to claim that the judge is prejudiced. He is no longer an impartial judge to hear the case even with the jury. He thus disqualifies himself under the law. A new judge must therefore be imported from another district. Will not that circumstance alone add to the confusion and congestion now obtaining in these courts?

This plan has been editorially commented upon by the New York Morning World in the following language:

The most accurate way to describe it is as a face-saving device for the unhappy Wickersham commission and an alibi for the administration. When Congress rejects the plan, the administration can once more heave a pious sigh and say that it really was very, very anxious to do something about prohibition, but the stubbornness of Congress blocked a noble plan.

This bill places great responsibility upon the commissioners. There are several thousands of them in the country now. There will be many more thousands appointed if the bill becomes a law. Is it not passing strange that thus far the judicial code lays down no qualifications as to these commissioners, despite their powers, which are already great, and which under this statute will become greater? Formerly the Revised Statutes provided—before the district courts were organized—that these commissioners, when appointed by the circuit court, had to be "discreet" persons. In the present code the word "discreet" is omitted. On page 919 of the United States Code are found the provisions with reference to commissioners. We are told that certain men, like janitors, marshals, civil and military Federal employees are disqualified, but we are not told of any positive qualifications that a commissioner must have. Under the present bill he is given a fee of $1 upon a plea of guilty and $5 upon a plea of not guilty. Although many of these commissioners are upstanding men, there are many of them who are mere lickspittles for ward healers or ward politicians. In the case of the latter the alternative of receiving $5 for a plea of not guilty and $1 for a plea of guilty presents a choice which would not be difficult to make.

Withal, the proposed statute is unconstitutional. It deprives a man of his right to trial by jury, guaranteed to him by Article III and the sixth and seventh amendments to the Constitution. That right is sacred, inalienable, yet this bill tramples it underfoot. Even prohibition is an insufficient excuse for threatening, much less destroying, that right. But prohibition seems to be paralyzing the will and destroying the courage of this House.

A long line of cases hold that jury trial must be accorded the accused in the trial of all "crimes," as that term was used in the common law. A so-called "petty" offense is not a "crime" and is not triable with a jury. However, any act that would send a man to jail for six months and would cause him to incur a fine of $500 can not be deemed "petty." Yet this bill and the Stobbs bill passed yesterday says such an act is "petty" and therefore can be tried without a jury. The case of Callan against Wilson, (127 U. S., p. 540) should still forever such a claim. That case holds that the word "crime" as used in the Constitution, and which therefore makes jury trial necessary, embraces not only felonies, but also some classes of misdemeanors the punishment of which might involve the deprivation of the liberty of the citizen. Mr. Justice Harlan, delivering the opinion of the court in the Callan case, said:

The third article of the Constitution provides for a jury in the trial of "all crimes, except in cases of impeachment." The word "crime" in its more extended sense, comprehends every violation of public law; in a limited sense, it embraces offenses of a serious or atrocious character. In our opinion, the provision is to be interpreted in the light of the principles which, at common law, determined whether the accused, in a given class of cases, was entitled to be tried by a jury. It is not to be construed as relating only to felonies, or offenses punishable by confinement in the penitentiary. It embraces as well some classes of misdemeanors, the punishment of which involves or may involve the deprivation of the liberty of the citizen. It would be a narrow construction of the Constitution to hold that no prosecution for a misdemeanor is a prosecution for a "crime" within the meaning of the third article, or a "criminal prosecution" within the meaning of the sixth amendment. And we do not think that the amendment was intended to supplant that part of the third article which relates to trial by jury. There is no necessary conflict between them. Mr Justice Story says that the amendment, "in declaring that the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State or district wherein the crime shall have been committed (which district shall be previously ascertained by law), and to be informed of the

nature and cause of the accusation, and to be confronted with the witnesses against him, does but follow out the established course of the common law in all trials for crimes. (Story on the Constitution, sec. 1791.) And as the guarantee of a trial by jury, in the third article, implied a trial in that mode and according to the settled rules of the common law, the enumeration, in the sixth amendment, of the rights of the accused in criminal prosecutions, is to be taken as a declaration of what those rules were, and is to be referred to the anxiety of the people of the States to have in the supreme law of the land, and so far as the agencies of the General Government were concerned, a full and distinct recognition of those rules, as involving the fundamental rights of life, liberty, and property (pp. 549–550).

The court, in describing the type of cases called "petty", said the following:

Violations of municipal by-laws proper, such as fall within the description of municipal police regulations, as, for example, those concerning markets, streets, water-works, city officers, etc., and which relate to acts and omissions that are not embraced in the general criminal legislation of the State, the legislature may authorize to be prosecuted in a summary manner, by and in the name of the corporation, and need not provide for a trial by jury. Such acts and omissions are not crimes or misdemeanors to which the constitutional right of trial by jury extends.

* * * * * * *

Even if it were to be conceded that notwithstanding the provision in the Constitution, that "the trial of all crimes, except in cases of impeachment, shall be by jury," Congress has the right to provide for the trial, in the District of Columbia, by a court without a jury, of such offenses as were, by the laws and usages in force at the time of the adoption of the Constitution, triable without a jury, it is a matter of history, that the offense of libel was always triable, and tried, by a jury. It is, therefore, one of the crimes which must, under the Constitution, be tried by a jury. The act of 1870 provides that the information in this case shall not be tried by a jury, but shall be tried by a court. It is true that it gives to the defendant, after judgment, if he deems himself aggrieved thereby, the right to appeal to another court, where the information must be tried by a jury. But this does not remove the objection. If Congress has the power to deprive the defendant of his right to a trial by jury, for one trial, and to put him, if convicted, to an appeal to another court, to secure a trial by jury, it is difficult to see why it may not also have the power to provide for several trials by a court, without a jury, on several successive convictions, before allowing a trial by a jury. In my judgment, the accused is entitled, not to be first convicted by a court and then to be acquitted by a jury, but to be convicted or acquitted in the first instance by a jury.

Without further reference to the authorities, and conceding that there is a class of petty or minor offenses not usually embraced in public criminal statutes and not of the class or grade triable at common law by a jury, and which, if committed in this district, may, under the authority of Congress, be tried by the court and without a jury, we are of opinion that the offense with which the appellant is charged does not belong to that class (pp. 553–555).

The conclusion from the Callan case surely is to the effect that a prohibition violation, involving a penalty of six months in jail and a $500 fine, can not be deemed "such a crime that one might call same 'petty,'" and therefore is not such a case as can be tried without a jury.

Two very important decisions were recently handed down which clearly demonstrates that Congress would have no power to allow a defendant to waive trial by jury in prohibition cases. On February 4, 1930, the Court of Appeals of the District of Columbia in the case of Colts against District of Columbia held that a police magistrate trying an automobile speed case had no right to try the defendant without a jury, and that when Congress empowered the police magistrate to try such a case without jury the law was unconstitutional. The case knocks the Wickersham proposal of juryless trials into smithereens. If a District of Columbia magistrate can not try a reckless driving case without a jury, then surely a United States commissioner can not try a prohibition violator without a jury.

In the case of Coats against United States, reported in volume 290 of the Federal Reports, page 134, which arose out of the Circuit Court of Appeals for the Fourth Circuit, it would appear that the defendant in that case was found guilty by a judge without a jury, which he personally waived, for a violation of the prohibition act. He was fined $1,000 and sentenced to 12 months' imprisonment. The United States Circuit Court of Appeals unanimously reversed the conviction and held that the constitutional requirement of trial by jury is mandatory in a prohibition case. Even the defendant could not waive the jury trial. The court then pointed out that there are petty offenses which are not crimes, and in the trial of them a jury may, by consent, be dispensed with. But they are of the kind which the common law classed as "petty" and "trifling," where conviction and punishment would not entail any moral turpitude or obliquity.

Six months in jail, even without hard labor, certainly casts a stigma upon the accused. It places a stain upon him and his family. It impairs his future credibility as a witness. He is disqualified as to character and his name is thus cast into disrepute. He may, in some States, be disqualified for holding public office. A bar sinister is upon him. Can one call such result "petty" or "casual"?

The Congress has no right to saddle any conditions on this inherent right to trial by jury. The situation is not saved by telling the accused that after he has been heard by the commissioner he still may have the right to trial by jury. The hearing before the commissioner is "a trial." It is at that point that the right is taken away from him. The Constitution says "trial by jury." The proceedings before the commissioner, being a trial, can not be had without a jury.

The "wicked" and "sham" report is what I term the Wickersham Commission's report on prohibition at Washington—"wicked" because it seeks to deny trial by jury in prohibition violations, and "sham" because it is utterly false as a cure for some of our prohibition illnesses and because its type of remedy would be worse than the disease. Striking at the age-worn bulwark of liberty—trial by jury—the carrying out of its recommendation would breed sullen resentment and would make prohibition vexation more vexatious, prohibition confusion worse confounded. Juryless prohibition trials, far from reducing, would greatly increase the congestion of court dockets.

We are told the President wants these bills. Indeed, prohibition has gone through (in the mind of the President) a curious metamorphosis. His changes on the subject are difficult to follow. In his speech of acceptance he called prohibition "an experiment noble in purpose." He furthermore said:

Common sense compels us to realize that grave abuses have occurred; abuses which must be remedied. An organized searching investigation of fact and causes can alone determine the wise methods of correcting them.

His inaugural address indicated that the investigation of prohibition should be so transformed as to include an inqury into the whole structure of Federal jurisprudence, with prohibition as but one part of the problem.

Prohibition with him thus ceases to occupy the center of the stage.

Prohibition sinks in importance.

Finally, in his speech to the "wicked" and "sham" commission he did not even mention prohibition.

Prohibition, Mr. Hoover thought, had shriveled up and died. How deluded our President has become. He has that type of mind that dismisses a problem as settled by the mere appointment of a commission or board. But problems are not settled that way. The people must be reckoned with. Neither the Wickersham Commission nor the President have an adequate understanding of the temper of the people; otherwise, they would never have proposed this monstrosity of juryless prohibition trials.

Recently designated Supreme Court Justice Owen J. Roberts has said:

I hold no brief either for or against prohibition. Let that be understood.

But I do hold a brief for this proposition, gentlemen: That the height of all absurdities of governmental regulation and tinkering was reached when a police statute was written into that great charter of our liberties, the Constitution of the United States.

If you are going to write sumptuary statutes and police regulations into that great instrument, you have drawn it down to the level of a city ordinance.

That, it seems to me, is the height and last of all the absurdities.

I wonder what Supreme Court Justice Roberts will say of juryless prohibition trials! His private judgment would be most illuminating.

Dr. Fabian Franklin, a very astute and wise observer, in a recent edition of the Forum made a pointed statement which I am pleased to insert at this point:

When the eighteenth amendment was adopted, it was not looked upon as an experiment at all; it was regarded as a finality. Now that we have come to look upon it as an experiment, the first question that should present itself to our minds is this: If, before we had committed ourselves to the apparently irrevocable step of putting bone-dry prohibition into the Constitution of the United States, we had been permitted to see what we now see, to know what we now know, would the eighteenth amendment have been adopted? And I think there need be little hesitation in saying that it would not.

For, in the first place, the mere recognition that the thing proposed was experimental would itself, unless we had thrown all political judgment to the winds, have been an almost fatal bar. Experiments have no place in such an instrument as the Constitution of the United States.

A little more than a year ago we passed in this Chamber the Jones Act, which made every prohibition violation a potential felony. The bill was railroaded through this Chamber. No opportunity for matured discussion or debate was given. The Jones law chickens came back to roost. Yesterday in this Chamber we amended that barbarous law.

I hope the Senate will refuse to accept the plan for juryless prohibition trials. But I do not believe it will. It will swallow it. If it does, and the courts will not "upset the apple cart" and declare the act unconstitutional, I predict that most of the Members who will vote for this proposition to-day will be clamoring for a repeal of this act within one year, because of the havoc, confusion, congestion, and turmoil that it will create. What happened on the Jones bill will happen on this bill.

Mr. HAMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAMMER: Pages 1 and 2, after the word "shall," line 5, page 1, strike out the word "plead" and insert "tender a plea"; after the word "he," in line 8, page 1, strike out the word "plead" and insert the words "tenders a plea of"; after the word "warrant," in line 9, page 1, and before the word "to," insert the words "and the evidence taken or the substance thereof"; after the word "the," in line 10, page 1, and before the word "plead," insert "tender of a"; after the word "court," in line 2, page 2, strike out the period and insert a comma and insert the words "after the evidence in the case has been considered by him."

The CHAIRMAN. Does the gentleman from North Carolina desire to be heard?

Mr. HAMMER. Yes; I desire to be heard. My purpose in offering this amendment is in order to improve and perfect the bill, so far as it can be, by the numerous amendments I have offered, some of which, as will be noted, were accepted in committee. So much has been said about the unconstitutionality of the bill that I hoped to make it clearer and less likely to be unconstitutional. I do not pretend to be a constitutional lawyer or to be able to forecast with any certainty whether the courts will hold it to be constitutional, but I have serious misgivings as to its constitutionality, but I am certain that there are numbers of Members on this side of the House who are anxious to support this bill if they are permitted to do so by making such amendments as to remove serious objections. But it seems to me that those who are in charge of this bill are determined not to permit the amendments that are necessary to be made in order to make this bill acceptable to the "drys" in this House.

I do not see how I can conscientiously support it until it is amended. It may be that the Senate will be considerate enough to perfect the bill. I do not reflect, and am not reflecting on the Attorney General of the United States, nor do I say that he has not experience in the trial of cases; but I am amazed that an Attorney General, or anyone else, should approve and be content with a bill that sends to the judge by the commissioner nothing but the complaint and the report and his recommendation, without a scintilla of evidence for the judge to act upon. Therefore I have asked in one of these amendments that the commissioner be required to send up the evidence or the substance thereof.

Then I have another amendment, after this, that will meet the objection to that; and that is, stenographers are not to be employed by the commissioner unless he has express authority from the judge of the district. That would prevent useless expenditure and waste of money except in the event the commissioner had a desire to provide for a stenographer under any special rule which the courts might adopt.

My purpose to amend this bill is not prompted by the idea that I know more about it than others, but because after long and careful consideration and discussion with my colleagues on this side and a number of Members on that side I find there is an earnest desire on the part of the Members of this House to carry out the will and the desire of the President and of the commission to study the enforcement of the law.

As far as I am concerned, I am going to do everything within my power to do it, if I can conscientiously. [Applause.]

Mr. SUMNERS of Texas. Mr. Chairman, I rise in opposition to the amendment in order to make some observations which I feel it is my duty to make. I am sure my colleagues will not misunderstand the motives or the spirit.

Mr. Chairman and members of the committee, with regard to this amendment and all other amendments and this bill and all other bills, I feel that in view of the character of the debate and the suggestions that have been made, raising the wet and dry issue in the consideration of this proposed legislation, it is time for us to stop and consider whither we are drifting and the inevitable consequences of that sort of a policy. The highest duty that the Members of this Congress can possibly owe to this Government, and as a matter of fact, to any cause in which they are interested, is to consider legislation from a broad viewpoint and with an eye single to the best permanent governmental policies of this country. No man or woman is fit to be in this House who, in these times, measures every item of proposed legislation by the standard of wet and dry. [Applause.]

Let me warn you, my friends, in the light of human history, if we pursue the policy that we seem to be launched upon, we will give to this country as low a standard of legislative efficiency as any nation has ever had. [Applause.] That is not all. If we continue to act as we have been acting in the House, the next presidential election will be based on the issue of wet and dry. If that is to be the issue, the one issue, the one standard, we will possibly put into the White House and will bring to the Halls of Congress as low an order of demagogic incompetents, if not crooks, as ever disgraced any national capital. What does the demagogue or the crook care which side he takes?

Mr. O'CONNOR of Oklahoma. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. O'CONNOR of Oklahoma. I wonder if the committee has ever considered the matter of establishing an ecclesiastical court to which would be referred all of these questions of statutory sin and matters of morals?

Mr. SUMNERS of Texas. I have found as much disposition among the wets as the drys to play to the gallery on this issue. I concede to the other fellow the same sincerity and honesty of purpose which I claim for myself. We confront a dangerous situation, one with regard to which we can not afford to play politics. I recognize that this wet and dry issue must be fought out as one of the issues, but when we come to deal with the governmental machinery of the country and to fix the broad, general policies of Government, we ought to approach that task not as wets and drys but as patriots, and to the best of our ability as statesmen, conscious of the responsibility involved in that undertaking. I am not trying to lecture anybody. I am not claiming any superior virtues. Let us be fair to each other. Let us be honest about it. Let us establish for ourselves a standard that we want the other fellows to observe. It is not going to be easy, but it is worth the effort. It involves neither sacrifice nor compromise. On all proper occasions the wet and dry issue can be considered, just as the tariff issue can be considered, just as any of the other multitudinous issues which arise in a great Government are considered. When the wet and dry issue arises, let Members take the position which their judgment and their respective constituencies require them to take in order that they may be in truth the representatives of their people, and when that contest is over, let us go unconfused to the other tasks, which are before us. I hope I will not be misunderstood. I repeat, I am not trying to lecture anybody; I am not pretending any superior virtues; I am talking with my friends, my comrades in responsibility, whether Democrats or Republicans, wet or dry. We have a common interest in the welfare of this Nation of ours and we know as the people can not know the tragic consequences which must inevitably follow from a policy of having the issues of a great Nation considered and settled with reference to one issue whatever it may be.

Mr. CHRISTOPHERSON. Will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. CHRISTOPHERSON. The gentleman said something about the prohibition law. The gentleman realizes that this bill as amended now pertains to all petty offenses?

Mr. SUMNERS of Texas. Absolutely; and the discussion of prohibition and antiprohibition in the consideration of this bill has no place. That is the point I make. With that point I am trying to illustrate the dangerous tendency in this House to inject the prohibition issue into all discussions and all determinations of public policy and of legislative enactments. I am not unmindful of the difficulties in trying to avoid that, either. But it is worth the effort both on the part of the Members here and of the people at home. When the agents of government divide upon one issue which dominates their general attitude the public interest suffers, and when the people divide upon one issue, blinded by zeal or passion to all else, incompetence comes to power, the demagogue is in his glory, and the crook has his chance. Members of the House, it is worth the effort to avoid

the condition from which these results naturally unavoidably follow. Let us do the best we can in this situation, which it would be utterly useless to pretend is not difficult.

Mr. MONTAGUE. May I ask the gentleman a question?

Mr. SUMNERS of Texas. Yes.

Mr. MONTAGUE. Does not the gentleman, who has been upon the committee a great while, recognize the position of some of the members upon the committee to be this, that, leaving aside all questions of constitutionality, this bill as now brought into this House does not expedite justice but retards the administration of justice; does not simplify, but confuses; does not save time, but extends and exaggerates time. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. MICHENER. Mr. Chairman, I move to strike out the last word. The gentleman from Texas has been talking about a motion to recommit. I submit in all fairness that that matter was settled a few minutes ago. We decided a motion to strike out the enacting clause which means practically the same thing.

Now, so far as the bill going back to the committee is concerned, I have no hesitation in saying that if the bill goes back to the committee you are not going to have any bill right away. That is the attitude of people who do not want any legislation which is going to help solve the question of congestion in the courts. They are very anxious that this whole matter should be killed here and now.

So far as prohibition is concerned, I am awfully sorry that is brought in. You have never heard me in my 12 years of service here bring prohibition on the floor in connection with other legislation. You have never heard me bring prohibition into the consideration of any measure in which I have been interested.

I hope that I am never partisan in the committee one way or the other so far as prohibition is concerned. This bill has had everything taken out of it that refers to prohibition. It deals with all petty offenses alike, regardless of what the offense is.

The trouble in this country to-day—and it has been recognized for a number of years—is that we do not have as speedy justice as we should have; it is now recognized that we must have more speedy and more sure justice. Speedy justice and sure justice will do more to enforce the law than severe sentences. [Applause.] We think too much of the criminal; let us think a little more of society. I would give the law violator all his just rights, but he is entitled to no more.

The American Bar Association has been before the Committee on the Judiciary on several occasions. We have had hearings on this very kind of legislation and prohibition was not thought of. The gentleman from Virginia [Mr. MOORE] was also before the committee trying to work out this thing through bills of almost the same character, but finally the Supreme Court rendered a decision which makes it possible for us to bring a bill before you to-day which, in my judgment, is constitutional, and which, in the judgment of practically every man here, is constitutional. So it resolves itself into a question of policy which we are considering. It is not a question of constitutionality, but it is a question as to whether or not we shall follow the suggestions of the learned jurists on the President's commission and the Attorney General of the United States.

Both approve of this bill. Some do not want to pass this bill because they conscientiously believe the plan will not work and because they believe that if this plan is put into operation it will not operate as the Attorney General and the Commission on Law Enforcement feel that it will operate.

Then there is the other school, like the people who applaud when you suggest sending back the bill and not trying to perfect it, who do not want the law enforced. They are opposed to giving this plan a trial because they are afraid that it will work. We have reached the place where we must forget prohibition, where we must forget whether we are wet or dry, and deal with this subject, having in mind only the matter of relieving congestion in the courts. The country demands action that will tend toward speedy disposition of all criminal cases and sure punishment of the guilty. This is not a political question. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken; and on a division (demanded by Mr. HAMMER) there were—ayes 44, noes 104.

So the amendment was rejected.

Mr. MOORE of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Virginia offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia: On page 1, line 5, after the words "petty offenses," strike out the remainder of the section down to and including the word "court" on page 2, in line 2, and insert the following: "A district of the United States may, by rules made hereunder, provide that in any prosecution any United States commissioner appointed by it may take a written plea of guilty, or if the accused in writing waive a jury trial may hear the evidence on a plea of not guilty and file in the court a report of the case with his recommendation of what judgment should be entered therein. Nothing in this section shall be construed to deprive a defendant of his right to a hearing by the court before entry of judgment in a case wherein he has pleaded guilty or to a trial by the court in a case wherein, on his plea of not guilty, the commissioner has recommended a judgment of guilty. The Supreme Court of the United States may from time to time revise or alter the rules made hereunder by any district court or may make rules applicable in all districts for the efficient enforcement of this provision."

Mr. BACHMANN. Mr. Chairman, a parliamentary inquiry.

Mr. LAGUARDIA. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from New York reserves a point of order and the gentleman from West Virginia will propound his parliamentary inquiry.

Mr. BACHMANN. I want to inquire, Mr. Chairman, whether this amendment, if adopted, strikes out the amendment which I proposed and which the committee adopted a moment ago.

The CHAIRMAN It does.

Mr. MOORE of Virginia. It would strike out the amendment considered verbally, but it would retain to the defendant the very right which the gentleman's amendment provides.

Mr. BACHMANN. But the gentleman's amendment strikes out the right of the man to waive his hearing before the commissioner.

Mr. MOORE of Virginia. No; because the amendment provides that the hearing shall only be when the defendant desires it.

Mr. LAGUARDIA. Or when he waives it in writing.

Mr. BACHMANN. But adopting the gentleman's amendment would strike out the amendment we have already adopted.

Mr. MOORE of Virginia. So far as mere language is concerned.

The CHAIRMAN. Does the gentleman from New York reserve his point of order?

Mr. LAGUARDIA. I reserve the point; yes.

Mr. MOORE of Virginia. Mr. Chairman, I do not propose to detain the House for even as long as I might do, but what I mainly desire is to have the amendment printed in the RECORD in order that it may be considered, perhaps, when this bill is dealt with elsewhere, either in the other body or in conference. I may say that the amendment which I have offered, as I think any of you gentlemen will see when you carefully read it, does substantially all that this bill proposes and relieves the bill of a great many objections which have been urged. For example, a district court is not forced to make use of the commissioner under this amendment. A defendant is not forced to offer a plea of either guilty or not guilty under the amendment. The district court which chooses to use a commissioner will under this amendment fix the rules which take care of the whole subject, but the right is reserved to the Supreme Court of the United States to fix comprehensive rules which will apply throughout the country wherever use is made of commissioners.

This proposal is no invention of mine. Three years ago it was one of the features of a bill which I offered and which was heard by a subcommittee of the Committee on the Judiciary, and the language to which you have listened came from the pen of an eminent lawyer, once the United States district attorney in New York and now a United States judge, Judge Caffey, who has probably given this subject more consideration than any other one lawyer in the country.

Mr. MICHENER. Will the gentleman yield?

Mr. MOORE of Virginia. Yes.

Mr. MICHENER. Does the gentleman know that the Law Enforcement Commission had this matter before them in the hearing on the gentleman's previous bill and the statement of Mr. Caffey, when this bill was worked out?

Mr. MOORE of Virginia. I can not imagine how, from the viewpoint of a lawyer or a layman the crimes commission could have preferred the bill which we have here to the proposal written by Judge Caffey, which had the approval of such men as Mr. Hughes, Mr. John W. Davis, and Mr. Henry W. Taft.

Now, I am quite aware that the House at this moment will be unable to consider this amendment, as I think it should be,

but I do trust that if this bill is not recommitted—and I am not in favor of recommittal, because that is not necessarily the way to treat bills that are defective—and I think this bill is defective, while I do not believe it is unconstitutional since the amendment drafted by the gentleman from West Virginia, it will be cured of its defects before it is enacted. I have often seen measures go from this House to the other body or into conference and then put into shape which gave to them the approval of both Houses, and such I have no doubt will occur in this instance.

Mr. LAGUARDIA. Mr. Chairman, I press my point of order against the amendment offered by the gentleman from Virginia that it is not in order in that he has offered an amendment to section 1 of the bill. Section 1 of the bill provides only for a plea of guilty, and the gentleman's amendment covers the whole field and changes the whole procedure.

The CHAIRMAN. Does the gentleman from Virginia concede the point of order?

Mr. MOORE of Virginia. If the amendment is adopted I shall ask to strike out the subsequent sections of the bill to which the language of the amendment can have any application.

The CHAIRMAN. Does the gentleman offer it as a complete bill?

Mr. MOORE of Virginia. It is an amendment to section 1, with the statement which is frequently made, as I understand, that if adopted a motion will be made to deal with the subsequent sections accordingly.

The CHAIRMAN. In order that the amendment may be in order, although not germane to the section to which it is offered, it must be the complete bill and notice must be given that everything else subsequent to the amendment will be stricken from the original bill.

Mr. MOORE of Virginia. I offer it in that way and shall follow with a motion that the rest of the bill be stricken out.

Mr. LAGUARDIA. That does not cure it.

The CHAIRMAN. The Clerk will report the amendment as modified by the gentleman from Virginia, with a notice that if the amendment be agreed to, the other sections of the bill will be stricken out.

The Clerk read as follows:

Amendment offered by Mr. MOORE of Virginia as a substitute for section 1, with notice that if adopted he will move to strike out subsequent sections: Strike out all after the enacting clause and insert:

"That in prosecution by complaint or information for petty offenses a district court of the United States may, by rules made hereunder, provide that in any prosecution any United States commissioner appointed by it may take a written plea of guilty, or if the accused in writing waive a jury trial, may hear the evidence on a plea of not guilty and file in the court a report of the case, with his recommendation of what judgment should be entered therein. Nothing in this section shall be construed to deprive a defendant of his right to a hearing by the court before entry of judgment in a case wherein he has pleaded guilty or to a trial by the court in a case wherein, on his plea of not guilty, the commissioner has recommended a judgment of guilty.

"The Supreme Court of the United States may, from time to time, revise or alter the rules made hereunder by any district court, or may make rules applicable in all districts for the efficient enforcement of this provision."

The CHAIRMAN. The Chair desires to ask the gentleman from Virginia a question. The Chair would suggest that the gentleman should not leave certain language of the first section in and strike out the remainder but should strike out everything after the enacting clause and then proceed with the language of the gentleman's amendment.

Mr. LAGUARDIA. Mr. Chairman, I reserve an objection. I made a point of order and am entitled to a ruling by the Chair and not a lecture on parliamentary law.

The CHAIRMAN. The gentleman from Virginia withdrew his amendment and offered a new modified amendment.

Mr. LAGUARDIA. I take exception to that. The gentleman did not withdraw his amendment. His previous amendment was pending.

Mr. O'CONNOR of New York. Will the Chair hear me on the point of order?

The CHAIRMAN. Without objection, the gentleman from Virginia [Mr. MOORE] withdrew his amendment to the first section of the bill and offered it as a new bill in the nature of a substitute, with notice that was stated, and there was no point of order offered to that new amendment whatsoever until the gentleman from New York [Mr. O'CONNOR] made his point of order. The Chair will hear the gentleman from New York on his point of order.

Mr. O'CONNOR of New York. Mr. Chairman, I make the point of order that the amendment is not germane to the title of the bill. I also make the point of order that the amendment has the effect of striking out an amendment to the bill already adopted by this committee.

The CHAIRMAN. Whether the amendment is germane to the title of the bill is not a point of order, because the title of the bill is in no sense a part of the bill.

Mr. O'CONNOR of New York. I meant to say the subject matter of the bill.

Mr. LAGUARDIA. Mr. Chairman, I make the point of order that the amendment is not properly before the House because the previous amendment had never been withdrawn.

The CHAIRMAN. That point of order is overruled. The point of order made by the gentleman from New York, Mr. O'CONNOR, is also overruled. The question is on the amendment offered by the gentleman from Virginia.

The question was taken; and on a division (demanded by Mr. MOORE of Virginia) there were—ayes 47, noes 117.

So the amendment was rejected.

Mr. MCSWAIN. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. MCSWAIN: Page 2, line 2, after the word "court," insert:

"United States commissioners shall be members of the bar of the district for which appointed, and shall be appointed during the pleasure of the judge, and be paid a salary of not less than $1,200 nor more than $2,400, to be fixed by the Attorney General of the United States in proportion to the number of cases handled by such commissioner."

Mr. LAGUARDIA. Mr. Chairman, I make a point of order on that and ask for a ruling.

The CHAIRMAN. The point of order is sustained, and the Clerk will read.

The Clerk read as follows:

SEC. 2. If the accused so prosecuted pleads not guilty, there shall be a hearing before the United States commissioner, who shall have the same powers with respect to summoning witnesses for prosecution and defense as those of a magistrate in a prosecution before him under the usual mode of process in the State, and the commissioner shall, as soon as practicable thereafter, transmit the complaint and warrant to the clerk of the district court, with a report of the plea and hearing and his finding and recommendations, and a judge of the court, on examination of the report and finding may confirm them and render judgment of conviction or acquittal as the case may be, and in case of conviction impose sentence, or may set aside the finding and recommendations of the commissioner and by a written decision make a finding of his own, and in case such finding is not excepted to, as provided in section 3, may, after three days from the filing of such decision and written notice thereof to the accused, proceed to impose sentence.

With the following committee amendments:

Page 2, line 11, strike out the words "finding and," and in line 12, strike out the words "and finding"; in line 13, strike out the word "confirm" and insert the word "approve"; in line 15, strike out the words "set aside the finding and" and insert "disapprove the"; line 17, strike out the words "of his own"; and in line 19, strike out the word "three" and insert the word "five."

Mr. LAGUARDIA. Mr. Chairman, I rise in opposition to the committee amendments. I rise simply to call the attention of the House to the committee amendment in line 11 and in line 15 which strikes out the word "finding" and limits this communication from the commissioner to the judge to a "recommendation." That is a confession of doubt in the mind of every member of the committee who is seriously sponsoring this bill. What does it mean? It means that the commissioner dare not express his view as to the guilt or innocence of the person for whom he is making recommendation perhaps of six months in jail. He can not submit a finding whether the defendant is an habitual offender or a casual offender. He can not submit one finding, and yet gentlemen have had the temerity to say that this proposed law will relieve the courts of work. It can not relieve the courts of work for the reason that any conscientious judge worthy of the name will necessarily have to read every word of the testimony in order to make these findings. Yet when the amendment offered by the gentleman from North Carolina [Mr. HAMMER] was offered to provide for the submission of testimony, it was voted down. This illustrates that the commissioner is a judge and yet is not a judge, that he can try the defendant and yet can not try the defendant. In order to be consistent and disregard all semblance of intelligent legisla-

tion, vote for the committee amendment. No matter what you do, you can not perfect this bill, and you must submit right now to the pressure brought to bear on this House only a few moments ago.

Mr. CHRISTOPHERSON. Mr. Chairman, the points made by the gentleman from New York are simply an indication of the abundant caution used in the preparation of this bill to make it legal and to comply with the constitutional requirements. And now just one additional word in regard to the bill. This is one of a series of four bills that were considered by the Judiciary Committee. They were reported out as a series of bills, closely related in their provisions. It was considered and discussed as to the advisability of combining them in one bill. They were taken up by the House yesterday. Three of them have gone through the House, a part of this series. I submit now to the House that, in all fairness, this bill ought to go through with them. It is part of the program.

As has been stated here by others, the Enforcement Commission, the Attorney General's office, and the President have asked for this class of legislation. They are charged with the responsibility of the enforcement of the law. Let us give them by this legislation the agencies and the machinery they want, and the responsibility will be theirs.

Mr. GRAHAM. Mr. Chairman, I move to strike out the last two words. With regard to the committee amendments on page 2 of this bill, I wish to say that they are most essential.

They ought to be adopted by the House, as we are trying to perfect this bill. These amendments were largely suggested by myself and by the chairman of the subcommittee for the purpose of perfecting the bill, making it as perfect as possible. I think the House should adopt them, so that if they wish to support this bill I hope the Members will put it in the best shape that it can be put in. [Applause.]

The CHAIRMAN. The question is on agreeing to the amendments.

The amendments were agreed to.

Mr. CRISP. Mr. Chairman, I shall detain the committee only a moment or two.

The distinguished gentleman from Pennsylvania [Mr. GRAHAM], the chairman of the committee, has been criticized by some Members for his courageous speech in expressing to the House his opinion of this bill. I, as one Member of this House, desire to extend to him an expression of my appreciation of his action. I do not believe, upon reflection, that any Member of the House, no matter what transpired in the Committee on the Judiciary, or what has happened on the floor of the House, has said anything intended as criticism of the chairman. He is charged with the responsibility, as chairman of the committee, to give his views. That is all he did. The gentleman was careful not to consume the time occupied by him in doing that from the time allotted to him under the rule. He obtained his time from the opposition from the gentleman from Virginia [Mr. MONTAGUE]. I wish to compliment the gentleman instead of criticizing him, and say that I approve of his action. [Applause.]

Mr. McKEOWN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Oklahoma offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. McKEOWN: Page 2, line 15, after the word "conviction," strike out all after the word "conviction" to end of section and insert "or disapproval of the recommendations of the commissioner, written notice thereof shall be given to the accused by registered mail, and if said accused shall file a written waiver of trial by jury, may enter the judgment and sentence and the clerk may issue all necessary process to enforce such judgment and sentence."

The CHAIRMAN. Does the gentleman from Oklahoma desire to be heard on his amendment?

Mr. McKEOWN. Yes. I want to call attention to this fact, that under the language as it is now, you require the defendant to request a trial by jury, whereas the Constitution says he is entitled to a trial by jury without request. Under this it is changed, and where the defendant waives his right of trial by jury before judgment is rendered, it simply preserves his constitutional right. Under the bill as it is now, if the defendant wants a jury trial, he has to give notice. The amendment shifts that around so that he does not have to apply, but waives. I want to have notice given.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Oklahoma.

The question was taken, and the amendment was rejected.

Mr. MONTAGUE. Mr. Chairman, I ask unanimous consent to proceed for half a minute out of order.

The CHAIRMAN. The gentleman from Virginia asks unanimous consent to proceed for one minute out of order. Is there objection?

There was no objection.

Mr. MONTAGUE. Mr. Chairman, I desire to make one suggestion. You have an amendment on line 4 to strike out certain words. I suggest that if you read the title you will see the necessity of striking out all reference there to the prohibition act. I suggest that you take out those words in the title. This is the only opportunity I shall have to make this suggestion.

The CHAIRMAN. The Clerk will read.

Mr. HAMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAMMER: Page 2, lines 3, 10, 12, and 13, after the word "prosecuted," in line 3, page 2, strike out the words "pleads not guilty" and insert the words "shall tender a plea denying his guilt."

After the second "the," in line 10, of page 2, and before the word "plea," insert the words "tender of the."

After the word "report," in line 12, page 2, insert the words, "and consideration of the evidence."

After the word "approve," strike out the words "them and" and insert the words "the recommendation of the commissioner."

Mr. HAMMER. Mr. Chairman, I desire one minute. The purpose of this amendment is like that of the other amendments I have offered, to clarify the bill and make it more certain that it is constitutional. A great lawyer of Virginia [Mr. TUCKER] has declared upon this floor to-day that every section of this bill is unconstitutional except that which says it shall not apply to Alaska. I can not believe, Mr. Chairman and members of the committee, that he said that as a mere idle statement. He is too honest and able a lawyer to make such a statement without meaning it. There is in my opinion serious doubt about the constitutionality of this bill, and while I did not hear it stated openly on this floor, yet I am told that there are those on that side who say the purpose of this side is to embarrass the President. There is no such purpose on my part.

I am sure there is no such purpose on the part of the gentleman from Virginia to whom I have referred. I am quite certain that we are sincere, especially when this side of the House represents that great section which is dry, and we are sent here, practically instructed, no matter to what political party we may belong, to vote to uphold the Constitution and the law as it is now, and not to weaken any of the laws relating to prohibition. While this legislation does affect other laws than prohibition it is perfectly clear that the purpose of it relates chiefly to the prohibition law and the enforcement thereof. We on this side desire to give the President of the United States a law which will be constitutional and a law which will be fair to the defendant and of service to the public. [Applause.]

Mr. MICHENER. Mr. Chairman, I want to add to what the gentleman from North Carolina [Mr. HAMMER] has said, that he has been of assistance at all times in perfecting a law which he feels will help enforce the law, and he is sincere in this matter. The committee considered these amendments and they were not adopted, and therefore, of course, we could not accept them here. I am sure that the gentleman appreciates the friendly spirit in which I object.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. HAMMER].

The amendment was rejected.

The Clerk read as follows:

SEC. 3. In case conviction is recommended by the commissioner, the accused may within three days after filing of the commissioner's report and written notice thereof except in writing to the report, and may also demand trial by jury. In case the court sets aside the commissioner's finding and recommendation of acquittal and finds the accused guilty, the accused may within three days after written notice of filing of the court's decision except thereto in writing and demand trial by jury. If in any case within this section trial by jury is not demanded as hereinbefore provided, it shall operate as a waiver of any right thereto.

With the following committee amendments:

Page 2, line 23, strike out the word "may" and insert the word "may" with a comma.

Page 2, line 23, strike out the word "three" and insert the word "eight."

Page 2, line 25, strike out the word "thereof" and insert the word "thereof" with a comma.

Page 3, line 1, after the word "court," strike out the words "sets aside" and insert the word "disapprove."

Page 3, line 2, strike out the words "finding and."

Page 3, line 3, at the end of the line strike out the word "three," and in line 4 insert the word "five."

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. BACHMANN. Mr. Chairman, I offer an amendment, which I have sent to the Clerk's desk.

The CHAIRMAN. The gentleman from West Virginia [Mr. BACHMANN] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. BACHMANN: Page 3, line 1, after the word "the" and before the word "court," strike out the word "court" and insert the word "judge."

Mr. LAGUARDIA. Will the gentleman yield?

Mr. BACHMANN. I yield.

Mr. LAGUARDIA. The gentleman, of course, knows that there is a difference between action by a judge and action by a court?

Mr. BACHMANN. Exactly, and that is the purpose of this amendment, because when the term "court" is used, it is meant that no action can be taken unless the court is in session, and when the word "judge" is used, a judge can pass on the matter when the court is not in session. It makes the law uniform.

Mr. GRAHAM. Will the gentleman yield?

Mr. BACHMANN. I yield.

Mr. GRAHAM. Also, in connection with the changing of the word "court" to the word "judge," will the gentleman add the letter "s" to the word "disapprove"?

Mr. BACHMANN. I will include that in the amendment. Page 3, line 1, at the end of the line, the word "disapprove" should be "disapproves."

Mr. LAGUARDIA. Then, it is the intention of the bill that a judge may pass upon these matters, approve sentences anywhere at any time and not at a session of the court?

Mr. BACHMANN. The gentleman is absolutely right. That is the purpose of the bill, in order to get rid of the congested conditions in the courts.

Mr. LAGUARDIA. If you want it that way, all right. He can do it at night.

Mr. BACHMANN. Yes.

The CHAIRMAN. Without objection, the gentleman's amendment will be modified as indicated.

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. BACHMANN].

The amendment was rejected.

Mr. JONAS of North Carolina. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. JONAS] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JONAS of North Carolina: Page 3, line 1, after the word "trial," insert the words "by the judge or."

Mr. JONAS of North Carolina. Mr. Chairman, ladies and gentlemen, on yesterday we passed a bill giving the defendant the right to waive trial by jury. This amendment provides that when the defendant files his exceptions to the report of the commissioner he can demand a trial before the judge or by a jury.

Mr. MICHENER. Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina [Mr. JONAS].

The amendment was agreed to.

Mr. SABATH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. SABATH] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. SABATH: Page 3, line 5, after the period, after the word "jury," strike out all of line 5 and line 6, line 7 and line 8.

Mr. SABATH. Mr. Chairman and gentlemen of the House, the amendment which I have offered provides for striking out the provision which reads as follows:

If in any case within this section trial by jury is not demanded as hereinbefore provided, it shall operate as a waiver of any right thereto.

Mr. Chairman and gentlemen, I feel that any Member who believes that our citizens should not be abridged of their constitutional right, especially that provision which guarantees each and every citizen a trial by jury, is duty bound to vote for my amendment. During the debate on this bill its proponents have continuously maintained that it will be beneficial to the slight and occasional violator. Yes; many maintain that the bill will relieve and ease the plight of the first or slight offender. Mr. Chairman, were I not familiar with the real underlying reasons behind the bill, and had I not studied it thoroughly, I could not help but be impressed by the clever arguments presented that such was the actual intent.

But having read and reread the bill and knowing with what determination the Anti-Saloon League and its affiliated societies persist in forcing the passage of this legislation, I am, as most of you must be, convinced that no such purposes are the aim or purport of this measure. Instead of being less severe on the first offender, this bill is in fact even harsher and more severe against him than is the Jones Act. The one who will be actually aided by this proposed law is the professional, influential, wealthy bootlegger.

Mr. Chairman and gentlemen, the title of the bill instead of reading "For summary prosecution for slight or occasional violations of the national prohibition act," should read "For the relief, aid, and protection of the professional, wealthy, resourceful, organized bootleg industry." I say this for the reason that this bill gives the astute professional violator familiar with court procedure several opportunities for postponements and delays as he selects his day, and when, where and how he is to be tried, all of which is denied the unfortunate defendant who without subjecting himself to heavy expense of engaging the services of a lawyer will endanger his right to trial by jury. By the adoption of my amendment his trial by jury will not be thus jeopardized. This bill not only abridges but deprives him of that right unless he be familiar with its complicated requirements and knows the exact time to make his demand for trial by jury. I desire here to insert a part of the minority report written by some of the most able lawyers of the House on this bill:

The circuitous, indirect method for the trial of persons charged with a petty offense in the bill reveals the uncertainty of the entire plan. It is sought to make a commissioner a trial judge, and yet he is no judge. It seeks to relieve Federal judges from the trial of petty offenses, but the judge is nevertheless required to determine the guilt or innocence of the defendant. It attempts to expedite final disposition of the cases and instead it prolongs and delays such disposition. Its purpose is to avoid a trial by jury, yet such trial is made available in the nebulous offing. The bill imposes the duty and responsibility of punishing offenders on the district judge and takes from him the opportunity of hearing and seeing the defendant and all the witnesses. The bill authorizes the commissioner to hear the testimony and recommend the punishment, but dares not give him the authority to make findings. The bill authorizes the commissioner to recommend the punishment, but the Constitution prevents him saying whether the defendant is guilty or innocent. The bill is highly technical in its provisions of criminal jurisprudence, yet it is drafted in the phraseology and nomenclature of the cross-word puzzle.

Section 2 provides for a hearing for all persons charged with the commission of a petty offense before the commissioner, who in turn will make a report and a recommendation to the judge but can not submit a finding of fact or a finding as to the guilt or innocence of the person whose punishment he may recommend. It therefore follows that the judge must necessarily read every word of the testimony, carefully scrutinize the record, and closely examine every ruling of the commissioner. If he fails to do that, it will simply result in rubber-stamp justice. If he does so examine the record and passes upon the guilt of the persons charged, it becomes a trial by correspondence. Either system is not only unconstitutional but manifestly unfair to both the defendant and the Government.

Under "petty offenses," as defined in another bill, H. R. 9985, which has passed, the question of the defendant being habitually engaged in violation of law is a necessary element not only in determining the guilt or innocence of a defendant but also as to the punishment which should be imposed, yet under the bill the commissioner has not the authority or power to make any finding on this point. Again, the judge will be required to read all of the testimony, without having the benefit of sizing up the witnesses, and is required to assume the responsibilities of punishing a person to the extent of six months in jail without ever having seen the defendant. A casual study of the involved provisions of the bill will immediately disclose that it can not accomplish the purpose for which it is presented to Congress, to wit, saving time, expediting procedure, and relieving congestion in the Federal courts.

In the cases of pleas of guilty a comparison of the present system where the defendant appears before the judge and enters his plea and the case is finally disposed of, with the involved provisions contained in section 1, reveals that in such cases no time is saved.

In the cases of pleas of not guilty the following table discloses the procedure under the provisions of this bill and under existing practice:

PROCEDURE PERTAINING TO PETTY OFFENSES

UNDER PROVISIONS OF H. R. 9937	UNDER EXISTING PRACTICE
1. Complaint filed.	1. Complaint filed.
2. Plea entered.	2. Plea entered.
3. Hearing (trial) before commissioner.	3. Trial in district court.
4. Report and recommendation made by commissioner to court.	
5. Defendant informed of comsioner's recommendation.	
6. Defendant has eight days in which to file exceptions.	
7. Case reviewed and examined by court.	
8. Court makes findings and approves or disapproves of commissioner's recommendation.	
9. Defendant informed of court's finding and sentence to be imposed.	
10. Defendant has five days in which to take exceptions to court findings and demand trial by jury.	
11. Defendant demands trial by jury, which nullifies all proceedings heretofore had.	
12. Trial in district court.	

It is clear to anyone familiar with court proceedings that the plan proposed will not accomplish any of the results desired. The plan will be advantageous to the guilty and detrimental to the innocent.

The purpose of empowering the commissioners to do indirectly that which should be done directly is a clumsy attempt to avoid constitutional requirements. The defendant can not be deprived of a trial by jury in the first instance, and the defect is not cured by the remote and technical right of a trial by jury provided in the bill.

Even though an offense may be characterized as petty, there is a grave question if the punishment of a fine of $500 and a sentence of six months in jail is not such as to bring the offense outside of the category of petty offenses, where a trial by jury is guaranteed by the Constitution.

Section 4, providing for the fees for the commissioner, will create conditions in commissioner's court that will soon amount to a scandal. Imagine the commissioner haggling with the defendants and attorneys for pleas of not guilty to receive the fee of $5 instead of $1 fee for a plea of guilty.

The bill provides an entirely new system of criminal procedure. It is destructive of every fundamental, precedent, and custom in our Federal practice. The plan is a slipshod, ill-advised, impractical system of turning out stereotyped justice in quantity production regardless of the merits and the circumstances in each individual case. The proposed system is unfair to the defendant and unfair to the Government. This particular kind of procedure is not only unknown under present criminal procedure and the common law, but never was heard of at all until advocated by the Commission on Law Observance.

F. H. LAGUARDIA.
CARL G. BACHMANN.
FRED H. DOMINICK.
EMANUEL CELLER.

MINORITY VIEWS OF MR. TUCKER

I concur in the above conclusions.

At the outset the title of the bill is a misnomer. It does not provide summary prosecutions. The effort to relieve the congestion of the courts by the bill will be changed to increase the congestion, because under it practically two trials instead of one are required. How can the time taken up in two trials be less than that for one trial?

2. It is unconstitutional because the punishment prescribed for a so-called petty offense may involve imprisonment for six months, a fine of $500, or both. Where such punishment is prescribed as deprives a man of his liberty he is entitled to, and must have, a trial by jury. How can he have it under this bill?

The commissioner of the district court is without power to summon a jury, to swear them, impanel them, hear the evidence, and receive the verdict of the jury. He has no such power, and none by the bill is attempted to be given him. But it is said there may be an appeal, after the hearing before the commissioner, to the court, and he may then have a jury trial. That is too late. While the proposed hearing by the commissioner in advance is not a legal trial, it practically is, for the commissioner in open court, or in his office, swears the witnesses, hears the evidence, and performs all the functions of the court, except that of judgment, but it takes time. It is open, the public may be on hand, as they generally are, listening.

The commissioner, as the mouthpiece of the court, is hearing the evidence to get his impressions of what he shall recommend to the judge in the case. The witnesses may be heard before him in his office with spectators and prospective jurors present (for the defendant has a right to require that every step of his trial shall be open to the public), and after the commissioner has recommended conviction this bill says the defendant may have a trial before the court with a jury. What jury? Made up of spectators who were perhaps at the hearing of the evidence, and probably who had made up their minds one way or the other from hearing that evidence. Such a trial by jury is not the constitutional right guaranteed to every American.

Of course, the hearing before the commissioner of the accused is not in a separate independent court, for it is no court. The commissioner is but the arm of the Federal court; but the proceedings in that hearing, so far as the accused is concerned in his right to a trial by an impartial jury, are the same, for in his hearing his case is unfolded before the public and prevents, for this reason and others, his securing an impartial trial by an appeal.

3. Section 1 of the bill is manifestly unconstitutional and void.

4. If the accused pleads not guilty, there shall be a hearing before the United States commissioner. It says, "and the commissioner shall, as soon as practicable thereafter, transmit the complaint and warrant to the clerk of the district court, with a report of the plea and hearing, and his recommendations." The judge, looking into the evidence of the record, may confirm the recommendation of the commissioner or may set it aside and render judgment of conviction or acquittal, as the case may be, and after three days from the filing of such decision and written notice thereof to the accused proceed to impose sentence.

If conviction is recommended by the commissioner, the accused may, within five days after filing of the commissioner's report and written notice thereof, except in writing to the report and may also demand trial by jury. If the court sets aside the commissioner's finding and his recommendation of acquittal and finds the accused guilty, the accused may, within five days, and so on, demand trial by jury. Here we have the same question discussed in the minority report on H. R. 10341, where we attempt to show that the right of trial by jury of an American citizen accompanies him to the courtroom and stays with him from the time he enters the court, through all of its proceedings, to the end; and manifestly the jury trial contemplated by the Constitution was not intended to be after a trial was over and the evidence heard in public by men and women who might probably be jurors forming their opinions unconsciously in advance.

The constitutional jury trial was not intended to be invoked only when the death rattle was heard in the throat of the patient; it was not intended as a "death doctor," who comes only as the patient is dying, but as protection to the accused, to be used at any time when called upon to plead, or when he is arraigned. The attempt to placate the public in this attempt to break down the jury trial, the safeguard of American liberty, by destroying its effectiveness should not be countenanced; it is one of the evidences quite patent at this time on the part of certain classes of people to belittle and thereby ultimately to abolish this inalienable right of a free people.

What power has Congress to put a condition upon the enjoyment of a right granted in the Constitution? How can a man be required to demand a right which is embedded in the Constitution of his country? The sixth amendment declares "the accused shall enjoy the right to a speedy and public trial by an impartial jury." It does not say he shall have that right upon demanding it five days before his trial, and that the failure to demand it when the time comes for his trial in court will result in a denial of his right. In some cases a man may waive this right to a jury trial, but I take it that Congress could not say by law that he could not waive it except upon conditions which Congress would lay down. Our efforts to change the Constitution by a law of Congress can not be done. Of course, a man must demand trial by jury, but when in the natural order of events? Clearly, when arraigned, when he pleads to the complaint, or when brought to trial.

HENRY ST. GEORGE TUCKER.

Mr. Chairman, I also wish to insert as part of my remarks an editorial from the Chicago Tribune, designated "Jury Trial Under Volstead."

JURY TRIAL UNDER VOLSTEAD

The House of Representatives has passed the bill, in the Wickersham portfolio of reforms to make prohibition prohibit, which undertakes to take the jury system out of Volstead enforcement as far as possible. The Senate now has it. There are some confirmed drys in Congress who view the attempt with disapproval or alarm, but, naturally, they are not many, and the more docile House Members yielded to the dry lobbies and the administration, passing the bill on to the Senate. The use of the injunction and contempt procedure under it has enabled the Federal judiciary to dispose of property and persons by summary process, but where this was not possible, the prosecution has been obliged to run a jury trial, and the results have not been satisfactory to the prosecutors. The Volstead law is of such a nature that its administration has tied criminal justice in a knot and the administrators can not see any substantial relief ahead, even by increasing the number of judicial districts and the number of penitentiaries to receive the output. Relief is sought, therefore, in a factory production of sentences to be made possible by getting the offender into a waiver of jury trial. The clogging of the courts

is a result inherent in the nature of the law. It being a vicious law, it produces general resistance and nonconformity. In such cases authority never has been able to do with ordinary legal procedure. It must fall back upon extralegal methods, which may be the use of the star chamber, or the quartering of dragoons upon the recusant families or communities. In this case the plan is to get rid of the obstructive jury to the largest extent possible.

A pliant offender, impressed by what may happen to him if he stands upon his rights when he is brought before a United States commissioner, may choose to submit his case to him. If the decision is that he is guilty, a report to that effect goes to the district judge. If the offender is dissatisfied, he may demand a trial with jury and take the consequences.

In a late modification of the proposed justice-shop method the petty offenses covered by the process were defined as such as involved jail sentences of less than six months or a fine of less than $500. The Jones law also was amended to make a petty offense one in which less than gallon of liquor was involved. Under the Jones law at present all liquor law offenses may bring the maximum of five years and $10,000, but there is a suggestion to the courts to discriminate between grave and slight offenses.

In whatever form the bill finally gets through Congress, if it does, its purpose is to eliminate trial by jury, because such trial interferes with the sentencing of the thousands of offenders against the Volstead Act. In the proposed action of the bill the citizen can not be deprived of his right arbitrarily, but the intimation of the law will be that if he knows when he is well off he will take what the United States commissioner hands him and will not seek the verdict of his peers. It is to persuade the defendant to let the Government have its way with him from the beginning and it requires no imagination to see it leading to intimidation.

The jury trial is an embarrassment to administration because its safeguards made it impossible to handle the thousands of cases of the new criminality made by sumptuary law. Government when committed to the enforcement of such law always tries to rid itself of legal obstacles and find summary methods of dealing with nonconformists by herds and droves. It is for this reason that trial by jury, whatever may seem to be the occasional defects of its operation, has been cherished by free people or people struggling for freedom as their protection against determined tyranny or sporadic oppression. When they find Government breaking through these guards they know that the pressure is inimical to their rights.

Mr. Chairman, unfortunately, copies of this minority report were not available for Members of the House until a few moments before this bill was called up, but in view of the fact that the command had been given and that President Hoover and Attorney General Mitchell demanded this legislation, and that the mouthpiece of the main power behind the present administration had issued the order that this bill must be put through pronto, I realize that the most learned or most powerful argument will not have any effect upon the majority of the Members, who, unfortunately, look for guidance, aid, and inspiration to the organization "born of God" and represented by the high political priests of prohibition, Cannon, Wilson, McBride, and Cherrington, but who, perhaps, may be more properly described as the Four Horsemen of the Apocalypse—plague, war, famine, and death.

I wonder if the American people are aware to what extent a few men have managed to monopolize the key positions on the three great money-collecting institutions in control of the prohibition machine. That these men have a keen business instinct, and see the advantage of not letting any of the huge contributions escape them, is evident from the manner in which they have monopolized control of not only the Anti-Saloon League but the Federal Council of the Churches, the Methodist Temperance Board as well.

For instance, Bishop James Cannon, jr., professional prohibitionist but less successful stock-market operator, is a member of the national executive committee of the Anti-Saloon League, and also a member of the executive committee of the Council of Churches. F. Scott McBride, smart fellow that he is, and not overlooking any good bets in the way of being connected with prosperous campaign-fund-raising organizations, is general superintendent of the Anti-Saloon League and likewise a member of the executive committee of the Council of Churches. Another is Dr. Ernest H. Cherrington, who is secretary of the national executive committee of the Anti-Saloon League and at the same time vice president of the Council of Churches.

Then there is a closely allied third organization, known as the Methodist Board of Temperance, Prohibition, and Public Morals. The generalissimo and chief mouthpiece of the entire three organizations is Dr. Clarence True (?) Wilson, who is general secretary of the Methodist board, and ever one of the most hard riding of the Four Horsemen.

To all practical ends, these organizations are one and the same. Any money contributed to either must pass through their hands. When it is realized that these organizations collect millions, as reported by them, and heaven only knows how many millions not reported, the advantage of monopolizing the key positions becomes apparent.

When we consider the power that this small group of men exerts over our Government, I consider the situation as most alarming. Mr. Chairman and gentlemen, it is not that I wish to be harsh, but I feel it is my solemn duty to point to this state of affairs and to inquire in all seriousness, How long can a nation survive these destructive influences, notwithstanding they are "born of God at a prayer meeting," according to Prohibitionist McBride? As one who sincerely believes in our form of government and the Constitution of our land, I desire to ask the Members and the American people to ponder well the danger to American institutions that lurks in these organizations which arrogantly set themselves above the duly constituted Government and the time-honored Constitution of the United States.

I feel these organizations should not only be exposed but that the professional politico-churchman dictators in control should be dethroned before they undermine or destroy our form of government. Investigations have disclosed that the group of gentlemen controlling these insidious organizations have not only prepared and forced bills through Congress and controlled legislation, exerted influence on the executive branch, but are endeavoring in the most despicable manner to control also even the third branch of our Government, the judicial branch, as well. Mr. Chairman, not only are they trying to control the Federal but also the State courts.

Justice Willoughby has been a notable judicial figure in Indiana's stormy and dirty politics because of his adherence to constitutional principles. He and two associates on the Indiana bench had endeavored, and with considerable success, to preserve the substance of fundamental law in spite of the dominance of the klan, the Anti-Saloon League, and the Women's Christian Temperance Union, which in Indiana political action means hooded hoodlums, moralistic racketeers, and bonneted fanaticism. The result—the refusal on the part of the Republican Party to renominate them.

Mr. Chairman, I think that we may at this time read with benefit, at least, portions of the farewell address of the Father of our Country, who in these most solemn words admonished us:

> All combinations and associations under whatever plausible character, with the real design to direct, control, counteract, or awe the regular deliberations and actions of the constituted authorities, are destructive of this fundamental principle, and of fatal tendency.
>
> However, combinations or associations of the above description may now and then answer popular ends. They are likely, in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.

Mr. Chairman and gentlemen, it was but a few years ago that all of us who pointed to the record incident to prohibition, to the wave of crime that followed in its wake, and who endeavored to bring about modification of the cursed prohibition policy in the interest of law, order, and sobriety, were charged with being "nullifiers." This was notwithstanding that those who so accused us were fully aware that we were within our rights under the Constitution in advocating repeal or modification of the prohibition law. It is generally recognized to-day that prohibition was forced upon our Nation by misrepresentation, threats, and corruption, as admitted by the then leaders of the Anti-Saloon League, Ku-Klux Klan, and its affiliated organizations. As I have stated before on the floor of this House, instead of we who openly advocated a change from the condition that was saturating the Nation with crime, the leaders of these prohibition organizations were the actual violators and nullifiers of the Constitution, many of them having stated openly and brazenly that, Constitution or no Constitution, they proposed to carry on their nefarious activities until they had obtained the power and the control that they had set out to secure.

Now, that they are in the saddle in practically every branch of the Government, what is the situation in Congress to-day? Due to the prohibition law, important legislation in the interest of the masses has been neglected and ignored.

The great sacred god of prohibition has the right of way here, and much good, beneficial legislation is shunted to the side. Men are elected to office not because of their honesty, ability, or devotion to the public interest but because they bear the approval of the all-powerful Anti-Saloon League. How long our institutions can survive under such conditions is problematical and something for us to consider.

It is 10 years ago that the Volstead Act was forced upon the American people.

In the intervening 10 years its enforcement has proven a violation of every primary American principle.

It is an act of forced intolerance.

It is a source of lawlessness and corruption in public life.

It outrages citizenship and distorts justice.

It has brutalized law enforcement.

It has debased our Government.

It has cheapened the lives and rights of our citizens.

It has destroyed conscience and moral responsibility.

It has submerged self-respect and self-discipline.

It has caused lawlessness, manslaughter, and murder.

It has caused disregard of property rights.

It has caused desecration of our homes.

It has caused turpitude in public affairs.

It has caused a decadence in American morale.

It has produced official hypocrisy and put bigotry in control.

Since the disclosures before the Senate investigating committee of the despicable activities of these organizations and the uncontradicted evidence before the House Judiciary Committee of the almost unbelievable increase in graft and crime of every description as a result of the working of the so-called prohibition law, the number of reputable American citizens who are crying out for relief from this indefensible law has increased not only by thousands but by millions. They demand and expect that Congress rescue them and the Nation from a wave of crime that is far worse and more nearly nation-wide than any similar crisis that this Nation has faced in all its history.

But I regret to say that no relief can be expected from this Congress. Prohibition is king to-day in this body. Instead of relieving conditions and return to sanity, you are going to pass this bill that will deprive American citizens of trial by jury.

There is a way, however, to obtain relief from what a leading London editorial writer, after a study of prohibition in the United States, accurately declared to be "the most tragic joke that any nation ever played upon itself." The voter, the rank and file of the American people, have the remedy in their own hands. They must support, at the ballot box, men who not only are solemnly on record to wipe off the statutes this curse of prohibition, but whose moral integrity is such as to guarantee that they will have the courage to vote after they are elected. Men should be elected to the legislatures and to the Congress of the United States who are definitely pledged to vote for the repeal of the prohibition law. Such men will surely present their candidacies before the people throughout the land at the coming elections, and every man and every woman alarmed at the unprecedented increase of crime in the United States should rally to their support, by voting only for such candidates.

Let us disregard the sinister and selfish influences and prejudices that have so long held sway abroad our land, and one and all devote our best efforts toward helping and improving our country that I know we all love so well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. SABATH].

The amendment was rejected.

Mr. SWANSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. SWANSON: Page 3, after line 8, insert a new section, as follows:

"SEC. 4. At any time before the entry of final judgment by the court in any prosecution under this act the district attorney may elect to present any such case to the grand jury, after which all future proceedings in the case shall be pursuant to the action of the grand jury."

Mr. SWANSON. Mr. Chairman, ladies and gentlemen, the district attorney of the United States is the responsible officer in prosecutions, and he should have some say as to whether cases should be presented to the grand jury of the United States courts. My amendment is the amendment I discussed when I was on the floor before. It simply provides that if the district attorney so elects any case can be presented to the grand jury before the entry of final judgment. My contention is that this is in the interest of orderly procedure and in the interest of fair play for all parties concerned, both for the defendants and for the Government, because you will find some commissioners who will be unreasonable and unfair; they will hold people, they will find them guilty, and they will come up for a hearing before the court. A great many cases may come up where the evidence is flimsy and uncertain and in those cases the district attorney would have to consider the question of dismissing them or submitting them to the grand jury.

If he submits them to the grand jury, that representative body of the people, the grand jury passes on whether the Government should be put to the expense of a trial in each individual case. On the other hand, as I said before, if a commercial bootlegger is caught with the goods on him he will rush into the commissioner's court and attempt to plead guilty and receive a fine for a petty offense.

Mr. BACHMANN. Will the gentleman yield?

Mr. SWANSON. Yes.

Mr. BACHMANN. If the district attorney desires to do so, can he not now go before the grand jury?

Mr. SWANSON. Yes.

Mr. BACHMANN. This bill does not change that.

Mr. SWANSON. I think it improves the situation, under this bill.

Mr. CHRISTOPHERSON. Mr. Chairman, with all due deference to the judgment of my good friend from Iowa, I do not believe this amendment should prevail. It is one that was considered in the committee; it is highly controversial, and there is a very distinct difference of opinion about it. As now provided in this bill the district attorney may proceed with the grand-jury proceeding, but having once commenced this other method, I think he should abide by it. I hope the amendment will not prevail.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The amendment was rejected.

Mr. HAMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HAMMER: Page 3, line 1, after the word "court," insert the words "after consideration of the evidence in the case, but nothing in this bill shall authorize the employment of a stenographer by the commissioner except when authorized by the United States district judge."

Mr. CHRISTOPHERSON. Mr. Chairman, I make a point of order against the amendment because it embodies the same thing we voted on a moment ago.

Mr. HAMMER. Oh, no.

The CHAIRMAN. The point of order is overruled, and the question is on the amendment offered by the gentleman from North Carolina.

The amendment was rejected.

The Clerk read as follows:

SEC. 4. In addition to the fees provided for in section 597, title 28, United States Code, the United States commissioner shall be entitled to the following fees: For reporting a plea of guilty, $1; for hearing, finding, and report in case of plea of not guilty, $5.

With the following committee amendment:

Page 3, line 12, strike out the comma after the word "hearing" and also the word "finding," and after the word "and" insert the words "making a."

The CHAIRMAN. The question is on the committee amendment.

The committee amendment was agreed to.

Mr. LAGUARDIA. Mr. Chairman, I offer an amendment. On page 3, line 12, strike out "$1" and insert "$2," and in line 13 strike out "$5" and insert "$2."

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 3, line 12, strike out "$1" and insert "$2." Page 3, line 13, strike out "$5" and insert "$2."

Mr. LAGUARDIA. Mr. Chairman, the only purpose of the amendment is to make the fees uniform. I do not care what amount you fix, but you can readily visualize conditions in these commissioner courts if you have a difference in the fee. It is your bill. Do anything you like with it. I am simply calling your attention to this situation.

Mr. O'CONNOR of Oklahoma. Mr. Chairman, I rise in favor of the amendment.

I was going to introduce a similar amendment, and it is a more important matter than you may think. The commissioner ought not to have any pecuniary interest whatever as to the way in which he reports. I tell you this is a sound idea. There should not be any influence of this kind at all—$5 if he reports one way and only $1 if he reports the other way. Make it $2, or $3, or any amount you want, but have it uniform.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the Chair announced that the ayes seemed to have it.

Mr. MICHENER. Mr. Chairman, I ask for a division and ask unanimous consent to make a short statement about the amendment. My attention was diverted for the moment.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. MICHENER. Mr. Chairman, this provision has the approval of the Department of Justice, and it will be noted that these fees are in addition to the fees provided by existing law. I am not familiar with what the fees are, but inasmuch as this is the recommendation of the administrative branch of the Government which will be compelled to carry out this law if it becomes effective, I hope the amendment will not be agreed to.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. MICHENER. Yes.

Mr. LAGUARDIA. The gentleman is absolutely justified in his attitude, because we are accepting everything else that some one else hands to us.

Mr. OLIVER of Alabama. Will the gentleman yield?

Mr. MICHENER. Yes.

Mr. OLIVER of Alabama. I would suggest that the gentleman accept an amendment "within the limits of appropriations hereafter carried," and the House in this way can reserve the right to look into the matter and probably limit it.

Mr. MICHENER. I may say to the gentleman that personally I might agree to that, but as the gentleman well knows, as a member of the Committee on Appropriations, there are many in the House who are attempting at all times to limit the power of the great Appropriations Committee so that they can not control all things, and I am afraid that amendment might jeopardize the bill.

Mr. OLIVER of Alabama. It would leave it to the House to determine.

Mr. CHRISTOPHERSON. If the gentleman will permit, there are several fee bills now pending, and if this bill becomes the law the whole matter of fees will undoubtedly be determined later.

Mr. MICHENER. Yes.

The committee divided; and there were—ayes 38, noes 79.

So the amendment was rejected.

Mr. McSWAIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. McSWAIN: Page 3, line 9, after the words "Sec. 4," strike out all the words of section 4 and insert the following language: "The United States commissioner shall, in lieu of all fees now provided by law, receive a salary of not less than $1,200 or more than $3,600, to be fixed by the Attorney General of the United States in proportion to the number of cases handled."

Mr. LAGUARDIA. Mr. Chairman, I make a point of order on the amendment.

The CHAIRMAN. The gentleman from New York makes a point of order against the amendment. Does the gentleman from South Carolina desire to be heard on the point of order?

Mr. McSWAIN. Very briefly, Mr. Chairman. The section deals with the subject of the compensation of United States commissioners, to wit, by fees. The amendment proposes to arrange their compensation by salary, and I certainly think the amendment is germane.

The CHAIRMAN. The Chair is ready to rule. Section 4 of the bill provides specifically for certain specific acts to be performed by the commissioner under the provisions of this bill. The gentleman seeks to substitute not only for the fees so specifically provided, but for all fees the commissioners are to get, an annual salary. It is clearly not germane to the purpose of the bill, and the point of order is sustained.

Mr. McSWAIN. Mr. Chairman, I move to strike out the last word, and will only take two minutes. I merely desire to say, Mr. Chairman, I think the country has got to come to the employment of the United States commissioners as an agency to relieve the undisputed congestion in the Federal courts due to the gradual accumulation of Federal jurisdiction.

I was compelled to vote against the motion to strike out the enacting clause of the bill in the hope that the apparent vices of the bill might be corrected by amendments. Not having been corrected by such amendments, in my humble judgment I feel I shall be compelled to vote against the bill on its final passage. All really meritorious amendments have been rejected. As the bill stands it will make bad matters worse and will tend to clutter up the dockets of Federal courts even more.

Mr. BOYLAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. BOYLAN: Page 3, line 12, after the word "guilty," strike out "$1" and insert "30 cents"; page 2, line 13, after the word "guilty," strike out "$5" and insert "99 cents."

Mr. BOYLAN. Mr. Chairman and ladies and gentlemen of the committee, I have been listening for the last three and a half hours to the debate. It is said that we want quick and cheap justice. If we are going to have cheap justice it ought to be cheap. Thirty cents is enough for a plea of guilty and 99 cents is enough for a plea of not guilty.

A very excellent amendment was offered, but voted down, whereby a man could plead by mail. Now, inasmuch as that worthy amendment was voted down, precluding the privilege of a man voting by mail, I suggest that he be permitted to plead by radio. [Laughter.] That would be a quick and hasty addition to this wonderful justice.

We have been under a haze of constitutional lawyers, and no two of them have agreed. It is enough to make a layman dizzy, and I think most of the Members are dizzy. [Cries of "Vote!" "Vote!"]

I will say that an ordinary layman would not have a Chinaman's chance against the aggregation of constitutional lawyers we have here to-day. These eminent and distinguished jurists can not agree whether the bill is constitutional or unconstitutional. How can you expect a Member of the House to decide for himself whether it is or not? I suggest in all fairness that in order that the atmosphere be cleared, the matter be referred to the Committee on the Judiciary, and let them bring in something that these distinguished and eminent jurists, these constitutional experts, may agree upon. I trust that my amendment will prevail. [Applause.]

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

Mr. HAMMER. Mr. Chairman, I offer an amendment, which I request the Clerk to read.

The Clerk read as follows:

Amendment by Mr. HAMMER: Page 3, line 13, strike out "$5" and insert the words "not exceeding $5, the amount to be fixed by the United States district judge."

Mr. HAMMER. There was some confusion as to the $1 fee for plea of guilty and the $5 feet for plea of not guilty. The gentleman from New York [Mr. LAGUARDIA] offered an amendment, which was lost, making fees alike, $2 for each plea, instead of $1 and $5. My amendment provides for striking out "$5" and inserting the words "not exceeding $5, the amount of the fee to be fixed by the United States district judge." This change will enable the judge to keep tab on those commissioners who use their office improperly by encouraging defendants to make such pleas as would increase the commissioners' fees. Furthermore it would place the judge in a position to decrease the fees of the class of commissioners who so abuse the privileges of their office and make merchandise of the trust reposed in them. It would also enable the judge to regulate the fees in proportion to the work done and compensate commissioners in accordance witheir efficiency and intelligent handling of their cases.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The amendment was agreed to.

The CHAIRMAN. The Clerk will proceed with the reading of the bill.

The Clerk read as follows:

SEC. 5. The circuit judges in each circuit shall have power to make rules for the details of practice suitable to carry out the several provisions of this act.

Committee amendment:

Page 3, lines 17 and 18, insert a new section, as follows:
"This act shall not apply to the Territory of Alaska."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. GRAHAM. Mr. Chairman, with the permission of the committee, I wish to say, having stated my position with regard to the bill, that with the amendments, some of which I think are vital, that have been agreed to, I propose to vote in favor of the adoption of the bill when it comes up in the House, to give it an opportunity to be tried out and see what can be accomplished under it. [Applause.]

I move that the committee do now rise and report the bill back to the House with sundry amendments, with the recom-

mendation that the amendments be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LEHLBACH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (H. R. 9937) to provide for summary prosecution of slight or casual violations of the national prohibition act and had directed him to report the same back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill as amended do pass.

Mr. GRAHAM. Mr. Speaker, I move the previous question on the bill and amendments to final passage.

The previous question was ordered.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

Mr. SUMNERS of Texas. Mr. Speaker, I move to recommit the bill to the Committee on the Judiciary.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. SUMNERS of Texas. I am.

The SPEAKER. The Clerk will report the motion of the gentleman from Texas.

The Clerk read as follows:

Mr. SUMNERS of Texas moves to recommit the bill to the Committee on the Judiciary.

The SPEAKER. The question is on agreeing to the motion to recommit.

The question was taken; and on a division (demanded by Mr. SUMNERS of Texas) there were—ayes 157, noes 225.

So the motion to recommit was rejected.

The SPEAKER. The question now is on the passage of the bill.

The question was taken.

Mr. LAGUARDIA. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 219, nays 117, not voting 92, as follows:

[Roll No. 60]

YEAS—219

Ackerman	Culkin	Howard	Mouser
Adkins	Davis	Huddleston	Murphy
Allen	Dempsey	Hudson	Nelson, Me.
Allgood	Denison	Hull, Morton D.	Nelson, Wis.
Almon	Doughton	Hull, Wis.	O'Connor, Okla.
Andresen	Dowell	Jeffers	Oldfield
Arentz	Driver	Jenkins	Oliver, Ala.
Arnold	Eaton, Colo.	Johnson, Ind.	Palmer
Aswell	Eslick	Johnson, Nebr.	Parker
Ayres	Evans, Calif.	Johnson, Okla.	Parks
Bachmann	Finley	Johnson, S. Dak.	Patman
Baird	Fitzgerald	Johnson, Wash.	Patterson
Barbour	Frear	Johnston, Mo.	Perkins
Beedy	Free	Jonas, N. C.	Pritchard
Beers	Freeman	Jones, Tex.	Purnell
Blackburn	French	Kelly	Quin
Blanton	Fulmer	Kemp	Ragon
Bolton	Garber, Okla.	Kendall, Ky.	Ramey, Frank M.
Bowman	Garrett	Kiefner	Ramseyer
Box	Gibson	Kinzer	Rankin
Brand, Ohio	Gifford	Kopp	Reece
Briggs	Glover	Kurtz	Reed, N. Y.
Browne	Goldsborough	Kvale	Reid, Ill
Buckbee	Goodwin	Lambertson	Robinson
Burtness	Graham	Langley	Rogers
Butler	Green	Lankford, Va.	Rowbottom
Cable	Gregory	Leavitt	Sanders, N. Y.
Campbell, Iowa	Guyer	Leech	Sanders, Tex.
Canfield	Hadley	Lozier	Sandlin
Cannon	Hale	Luce	Sears
Carter, Calif.	Hall, Ill.	Ludlow	Sejberling
Cartwright	Hall, Ind.	McClintic, Okla.	Selvig
Chindblom	Hall, N. Dak.	McClintock, Ohio	Shaffer, Va.
Christgau	Halsey	McFadden	Short, Mo.
Christopherson	Hammer	McKeown	Shott, W. Va.
Clague	Hardy	McLaughlin	Shreve
Clark, Md.	Hastings	McReynolds	Simmons
Clarke, N. Y.	Haugen	Magrady	Simms
Cole	Hawley	Mapes	Sloan
Collier	Hickey	Menges	Smith, Idaho
Cooper, Ohio	Hill, Ala.	Michener	Snell
Cooper, Tenn.	Hill, Wash.	Miller	Snow
Cooper, Wis.	Hoch	Milligan	Sparks
Coyle	Hogg	Moore, Ky.	Speaks
Crail	Holaday	Moore, Ohio	Sproul, Ill.
Cramton	Hooper	Moore, Va.	Stalker
Cross	Hope	Morehead	Strong, Kans.
Crowther	Hopkins	Morgan	Strong, Pa.
Summers, Wash.	Thompson	Watres	Wolverton, N. J.
Swanson	Thurston	Watson	Wolverton, W. Va.
Swick	Tilson	Whitley	Woodruff
Swing	Vestal	Whittington	Woodrum
Taber	Wainwright	Williamson	Yates
Temple	Walker	Wilson	Zihlman
Thatcher	Wason	Wolfenden	

NAYS—117

Aldrich	Dallinger	Kading	Palmisano
Auf de Heide	Darrow	Kahn	Pittenger
Bacon	DeRouen	Kennedy	Pou
Bell	Dickstein	Kerr	Prall
Black	Dominick	Knutson	Pratt, Ruth
Bland	Douglass, Mass.	LaGuardia	Quayle
Boylan	Doxey	Lampert	Rainey, Henry T.
Brand, Ga.	Drewry	Lanham	Ramspeck
Britten	Edwards	Lankford, Ga.	Ransley
Browning	Englebright	Lea	Rutherford
Brumm	Evans, Mont.	Lehlbach	Sabath
Brunner	Fenn	Letts	Schafer, Wis.
Burdick	Fish	Lindsay	Schneider
Busby	Fisher	Linthicum	Seger
Byrns	Fitzpatrick	McCormack, Mass.	Smith, W. Va.
Campbell, Pa.	Foss	McDuffie	Somers, N. Y.
Carley	Fuller	McLeod	Stafford
Carter, Wyo.	Gambrill	McMillan	Sumners, Tex.
Celler	Gasque	McSwain	Tarver
Chalmers	Gavagan	Martin	Tinkham
Clancy	Granfield	Merritt	Tucker
Clark, N. C.	Griffin	Michaelson	Vinson, Ga.
Cochran, Mo.	Hall, Miss.	Montet	Warren
Connery	Hancock	Nelson, Mo.	Welch, Calif.
Cooke	Hare	Niedringhaus	Wigglesworth
Corning	Hartley	Norton	Wright
Cox	Hess	O'Connell	Wurzbach
Crisp	Hull, William E.	O'Connor, La.	
Crosser	Irwin	O'Connor, N. Y.	
Cullen	Johnson, Tex.	Oliver, N. Y.	

NOT VOTING—92

Abernethy	Dunbar	Kincheloe	Steagall
Andrew	Dyer	Korell	Stedman
Bacharach	Eaton, N. J.	Kunz	Stevenson
Bankhead	Elliott	Larsen	Stobbs
Beck	Ellis	McCormick, Ill.	Stone
Bloom	Estep	Maas	Sullivan, N. Y.
Bohn	Esterly	Manlove	Sullivan, Pa.
Brigham	Fort	Mansfield	Taylor, Colo.
Buchanan	Garber, Va.	Mead	Taylor, Tenn.
Chase	Garner	Montague	Timberlake
Cochran, Pa.	Golder	Mooney	Treadway
Collins	Greenwood	Newhall	Turpin
Colton	Hoffman	Nolan	Underhill
Connolly	Houston, Del.	Owen	Underwood
Craddock	Hudspeth	Peavey	Vincent, Mich.
Curry	Hull, Tenn.	Porter	Welsh, Pa.
Davenport	Igoe	Pratt, Harcourt J.	White
De Priest	James	Rayburn	Whitehead
Dickinson	Johnson, Ill.	Romjue	Williams
Douglas, Ariz.	Kearns	Sinclair	Wingo
Doutrich	Kendall, Pa.	Sirovich	Wood
Doyle	Ketcham	Spearing	Wyant
Drane	Kiess	Sproul, Kans.	Yon

So the bill was passed.

The Clerk announced the following pairs:

On the vote:

Mr. Stobbs (for) with Mr. Golder (against).
Mr. Ellis (for) with Mr. Dyer (against).
Mr. Elliott (for) with Mr. Mooney (against).
Mr. Kiess (for) with Mr. Doyle (against).
Mr. Bohn (for) with Mr. Bloom (against).
Mr. Fort (for) with Mr. Spearing (against).
Mr. Harcourt J. Pratt (for) with Mr. Mead (against).
Mr. Brigham (for) with Mr. Kunz (against).
Mrs. Owen (for) with Mr. Sullivan of New York (against).
Mr. Wyant (for) with Mr. Curry (against).
Mr. Greenwood (for) with Mr. Sirovich (against).
Mr. Manlove (for) with Mr. Igoe (against).
Mr. Ketcham (for) with Mr. Connolly (against).
Mr. Kendall of Pennsylvania (for) with Mr. Montague (against).
Mr. Davenport (for) with Mrs. McCormick of Illinois (against).

Until further notice:

Mr. Treadway with Mr. Bankhead.
Mr. Esterly with Mr. Underwood.
Mr. Kearns with Mr. Larsen.
Mr. Turpin with Mr. Romjue.
Mr. Bacharach with Mr. Stevenson.
Mr. Welsh of Pennsylvania with Mr. Hull of Tennessee.
Mr. Taylor of Tennessee with Mr. Buchanan.
Mr. Doutrich with Mr. Whitehead.
Mr. Wood with Mr. Abernethy.
Mr. James with Mr. Taylor of Colorado.
Mr. Dunbar with Mr. Rayburn.
Mr. Vincent of Michigan with Mr. Williams of Texas.
Mr. Timberlake with Mr. Collins.
Mr. Underhill with Mr. Kincheloe.
Mr. Eaton of New Jersey with Mr. Steagall.
Mr. Sinclair with Mr. Yon.
Mr. Colton with Mr. Drane.
Mr. Newhall with Mr. Wingo.
Mr. Estep with Mr. Mansfield.
Mr. Cochran of Pennsylvania with Mr. Douglas of Arizona.
Mr. Porter with Mr. Hudspeth.
Mr. Nolan with Mr. Stedman.

The result of the vote was announced as above recorded.

The SPEAKER. Without objection, the title will be amended.

There was no objection.

On motion of Mr. GRAHAM, a motion to reconsider the vote whereby the bill was passed was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Craven, its principal clerk, announced that the Senate requests the House of Representatives to return to the Senate the bill (H. R. 12205) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and so forth, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors."

The message also announced that the Senate insists upon its amendments to the bill (H. R. 6) entitled "An act to amend the definition of oleomargarine contained in the act entitled 'An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine,' approved August 2, 1886, as amended," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCNARY, Mr. NORBECK, and Mr. KENDRICK to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2370) entitled "An act to fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. CAPPER, Mr. JONES, Mr. ROBSION of Kentucky, Mr. GLASS, and Mr. COPELAND to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate numbered 18 to the bill (H. R. 11965) entitled "An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes."

MUSCLE SHOALS

Mr. RANSLEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the resolution (S. J. Res. 49) to provide for the national defense by the creation of a corporation for the operation of the Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes, insist on the House amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolution (S. J. Res. 49) to provide for the national defense by the creation of a corporation for the operation of the Government properties at and near Muscle Shoals, in the State of Alabama, and for other purposes.

The SPEAKER. Is there objection?

Mr. LAGUARDIA. Reserving the right to object, Mr. Speaker, is the motion of the gentleman to insist upon the House amendments?

Mr. RANSLEY. The motion is to insist on the bill as passed by the House.

Mr. HILL of Alabama. This is a regular formal request?

Mr. RANSLEY. It is.

Mr. LAGUARDIA. That does not bind the House or instruct the conferees?

Mr. RANSLEY. No.

Mr. GARNER. Mr. Speaker, the gentleman from Pennsylvania calls this resolution up at this late day. I hope they will agree in conference. It ought to have been sent to conference some days ago.

Mr. RANSLEY. That would have been done if the gentleman had not interfered.

Mr. GARNER. I would like to ask the Speaker and the gentleman from Pennsylvania how I could interfere with his calling up the resolution and asking unanimous consent to send it to conference?

Mr. TILSON. Regular order, Mr. Speaker.

Mr. GARNER. I know the Members on that side do not want an explanation.

The SPEAKER. Is there objection?

There was no objection; and the Speaker announced as the conferees on the part of the House Mr. RANSLEY, Mr. WURZBACH, Mr. REECE, Mr. QUIN, and Mr. FISHER.

SUITS FOR INFRINGEMENT OF PATENTS—PENSIONS

The SPEAKER. The Chair lays before the House the following requests from the Senate, which the Clerk will report.

The Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
May 29 (calendar day, June 4), 1930.

Ordered, That the House of Representatives be requested to return to the Senate the bill (S. 4442) entitled "An act relating to suits for infringement of patents where the patentee is violating the antitrust laws."

IN THE SENATE OF THE UNITED STATES,
May 29 (calendar day, June 3), 1930.

Resolved, That the House of Representatives be requested to return to the Senate the bill (H. R. 12205) entitled "An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and so forth, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors," together with all accompanying papers.

The SPEAKER. Is there objection?

Mr. SCHAFER of Wisconsin. Mr. Speaker, I reserve the right to object.

Mr. CHINDBLOM. Will the gentleman withhold his objection for a moment?

Mr. SCHAFER of Wisconsin. Yes; but I want to be sure that if these bills are sent back they will not be chloroformed by the other body.

The SPEAKER. Without objection, the requests of the Senate will be granted.

There was no objection.

SALARIES OF POLICE AND FIRE DEPARTMENTS

Mr. McLEOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill S. 2370, insist on the House amendments, and agree to the conference asked for by the Senate.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (S. 2370) to fix the salaries of officers and members of the Metropolitan police force and the fire department of the District of Columbia.

The SPEAKER. Is there objection?

Mr. SIMMONS. I object.

The SPEAKER. Objection is heard.

ADDITIONAL CIRCUIT JUDGE, THIRD CIRCUIT

Mr. GRAHAM. Mr. Speaker, I call up the bill (S. 3493) to provide for the appointment of an additional circuit judge for the third judicial circuit, mentioned in the rule, and ask unanimous consent that it may be considered in the House as in Committee of the Whole.

Mr. O'CONNOR of New York. I object. I agree to the substance but object to the request.

The SPEAKER. The gentleman from Pennsylvania has the right to call up the bill. He asked unanimous consent to consider it in the House as in Committee of the Whole.

Mr. GRAHAM. Mr. Speaker, I call up Senate bill S. 3493 under the rule.

Mr. O'CONNOR of New York. It is a Union Calendar bill.

Mr. GRAHAM. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3493) to provide for the appointment of an additional circuit judge for the third judicial circuit.

The SPEAKER. The gentleman from Pennsylvania [Mr. GRAHAM] moves that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 3493.

The question was taken; and on a division (demanded by Mr. O'CONNOR of New York) there were—ayes 122, noes 5.

Mr. O'CONNOR of New York. Mr. Speaker, I make the point of order that there is no quorum.

The SPEAKER. Evidently there is not a quorum present.

Mr. EDWARDS. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER. The gentleman from Georgia [Mr. EDWARDS] moves that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. SPROUL of Illinois) there were—ayes 22, noes 128.

So the House refused to adjourn.

The SPEAKER. The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 204, nays 15, not voting 209, as follows:

[Roll No. 61]

YEAS—204

Ackerman	Box	Cartwright	Cross
Almon	Brand, Ohio	Chindblom	Crosser
Andresen	Briggs	Christgau	Crowther
Arentz	Browne	Christopherson	Culkin
Arnold	Browning	Cochran, Mo.	Darrow
Bachmann	Buckbee	Collier	Davis
Baird	Burtness	Cooper, Ohio	Denison
Barbour	Butler	Cooper, Tenn.	DeRouen
Beedy	Cable	Cooper, Wis.	Dominick
Beers	Campbell, Iowa	Coyle	Doughton
Blanton	Campbell, Pa.	Crail	Dowell
Bolton	Canfield	Cramton	Doxey
Bowman	Carter, Calif.	Crisp	Eaton, Colo.

Edwards	Jenkins	Mapes	Shreve
Englebright	Johnson, Ind.	Martin	Simmons
Evans, Calif.	Johnson, Okla.	Menges	Sloan
Fisher	Johnson, Tex.	Michaelson	Smith, W. Va.
Foss	Jonas, N. C.	Michener	Snow
French	Jones, Tex.	Miller	Somers, N. Y.
Fulmer	Kading	Montet	Sparks
Garber, Okla.	Kahn	Moore, Ohio	Speaks
Garner	Kelly	Morehead	Sproul, Ill.
Garrett	Kemp	Mouser	Sproul, Kans.
Gasque	Kendall, Ky.	Niedringhaus	Stafford
Gibson	Kerr	O'Connell	Stalker
Glover	Kiefner	O'Connor, La.	Steagall
Goodwin	Kinzer	Oldfield	Strong, Kans.
Graham	Knutson	Oliver, N. Y.	Strong, Pa.
Granfield	Kopp	Palmer	Summers, Wash.
Green	Kvale	Parker	Sumners, Tex.
Gregory	LaGuardia	Patman	Swanson
Guyer	Langley	Patterson	Swick
Hall, Ill.	Lanham	Perkins	Taber
Hall, Ind.	Lankford, Ga.	Pittenger	Temple
Hall, N. Dak.	Lankford, Va.	Pratt, Ruth	Thatcher
Halsey	Lea	Pritchard	Thompson
Hancock	Leavitt	Ramey, Frank M.	Tilson
Hare	Leech	Rankin	Wainwright
Hastings	Lehlbach	Reece	Warren
Hickey	Letts	Reed, N. Y.	Wason
Hill, Ala.	Luce	Reid, Ill.	Watres
Hill, Wash.	Ludlow	Robinson	Watson
Hoch	McClintock, Ohio.	Rogers	Welch, Calif.
Hooper	McCormack, Mass.	Sanders, N. Y.	Whitley
Hope	McDuffie	Sanders, Tex.	Whittington
Hopkins	McKeown	Schafer, Wis.	Wigglesworth
Howard	McLaughlin	Seger	Williamson
Hudson	McMillan	Seiberling	Wolverton, N. J.
Hull, Wis.	McReynolds	Shaffer, Va.	Wolverton, W. Va.
Irwin	McSwain	Short, Mo.	Woodruff
Jeffers	Magrady	Shott, W. Va.	Zihlman

NAYS—15

Black	Drewry	Norton	Schneider
Cannon	Fuller	O'Connor, N. Y.	Tarver
Cullen	Griffin	Ramspeck	Wright
Douglass, Mass.	Kennedy	Ransley	

NOT VOTING—209

Abernethy	Dickinson	Johnson, Nebr.	Rainey, Henry T.
Adkins	Dickstein	Johnson, S. Dak.	Ramseyer
Aldrich	Douglas, Ariz.	Johnson, Wash.	Rayburn
Allen	Doutrich	Johnston, Mo.	Romjue
Allgood	Doyle	Kearns	Rowbottom
Andrew	Drane	Kendall, Pa.	Rutherford
Aswell	Driver	Ketcham	Sabath
Auf der Heide	Dunbar	Kiess	Sandlin
Ayres	Dyer	Kincheloe	Sears
Bacharach	Eaton, N. J.	Korell	Selvig
Bacon	Elliott	Kunz	Simms
Bankhead	Ellis	Kurtz	Sinclair
Beck	Eslick	Lambertson	Sirovich
Bell	Estep	Lampert	Smith, Idaho
Blackburn	Esterly	Larsen	Snell
Bland	Evans, Mont.	Lindsay	Spearing
Bloom	Fenn	Linthicum	Stedman
Bohn	Finley	Lozier	Stevenson
Boylan	Fish	McClintic, Okla.	Stobbs
Brand, Ga.	Fitzgerald	McCormick, Ill.	Stone
Brigham	Fitzpatrick	McFadden	Sullivan, N. Y.
Britten	Fort	McLeod	Sullivan, Pa.
Brumm	Frear	Maas	Swing
Brunner	Free	Manlove	Taylor, Colo.
Buchanan	Freeman	Mansfield	Taylor, Tenn.
Burdick	Gambrill	Mead	Thurston
Busby	Garber, Va.	Merritt	Timberlake
Byrns	Gavagan	Milligan	Tinkham
Carley	Gifford	Montague	Treadway
Carter, Wyo.	Golder	Mooney	Tucker
Celler	Goldsborough	Moore, Ky.	Turpin
Chalmers	Greenwood	Moore, Va.	Underhill
Chase	Hadley	Morgan	Underwood
Clague	Hale	Murphy	Vestal
Clancy	Hall, Miss.	Nelson, Me.	Vincent, Mich.
Clark, Md.	Hammer	Nelson, Mo.	Vinson, Ga.
Clark, N. C.	Hardy	Nelson, Wis.	Walker
Clarke, N. Y.	Hartley	Newhall	Welsh, Pa.
Cochran, Pa.	Haugen	Nolan	White
Cole	Hawley	O'Connor, Okla.	Whitehead
Collins	Hess	Oliver, Ala.	Williams
Colton	Hoffman	Owen	Wilson
Connery	Hogg	Palmisano	Wingo
Connolly	Holaday	Parks	Wolfenden
Cooke	Houston, Del.	Peavey	Wood
Corning	Huddleston	Porter	Woodrum
Cox	Hudspeth	Pou	Wurzbach
Craddock	Hull, Tenn.	Prall	Wyant
Curry	Hull, Morton D.	Pratt, Harcourt J.	Yates
Dallinger	Hull, William E.	Purnell	Yon
Davenport	Igoe	Quayle	
Dempsey	James	Quin	
De Priest	Johnson, Ill.	Ragon	

So the motion was agreed to.

The Clerk announced the following additional pairs:

Mr. Snell with Mr. Bankhead.
Mr. Free with Mr. Hammer.
Mr. Dallinger with Mr. Henry T. Rainey.
Mr. Kurtz with Mr. Byrns.
Mr. Beck with Mr. Lindsay.
Mr. Yates with Mr. Bell.
Mr. Johnson of Washington with Mr. Moore of Virginia.
Mr. McFadden with Mr. Prall.
Mr. Fenn with Mr. Corning.
Mr. Purnell with Mr. Sandlin.
Mr. McLeod with Mr. Gavagan.
Mr. Johnston of Missouri with Mr. Woodrum.
Mr. Simms with Mr. Eslick.
Mr. Vestal with Mr. Quayle.
Mr. Holaday with Mr. Connery.
Mr. Hardy with Mr. Nelson of Missouri.
Mr. Swick with Mr. Brunner.
Mr. Murphy with Mr. Jones of Texas.
Mr. Johnson of South Dakota with Mr. Allgood.
Mr. Clancy with Mr. Lozier.
Mr. Merritt with Mr. Celler.
Mr. Clague with Mr. Driver.
Mr. Lampert with Mr. Wilson.
Mr. Fish with Mr. Gambrill.
Mr. Sears with Mr. Parks.
Mr. Free with Mr. Moore of Kentucky.
Mr. Hawley with Mr. Boylan.
Mr. Tinkham with Mr. Aswell.
Mr. William E Hull with Mr. Oliver of Alabama.
Mr. Wurzbach with Mr. Busby.
Mr. Britten with Mr. Ayres.
Mr. Wolfenden with Mr. Linthicum.
Mr. Brumm with Mr. Brand of Georgia.
Mr. Johnson of Nebraska with Mr. Milligan.
Mr. Bacon with Mr. Pou.
Mr. Clark of Maryland with Mr. Dickstein.
Mr. Nelson of Wisconsin with Mr. Evans of Montana.
Mr. Ramseyer with Mr. Hall of Mississippi.
Mr. Clarke of New York with Mr. Tucker.
Mr. Finley with Mr. Quin.
Mr. Smith of Idaho with Mr. Bland.
Mr. Hale with Mr. Auf der Heide.
Mr. Freeman with Mr. Huddleston.
Mr. Fitzgerald with Mr. McClintic of Oklahoma.
Mr. Dempsey with Mr. Clark of North Carolina.
Mr. Burdick with Mr. Ragon.
Mr. Hadley with Mr. Cox.
Mr. Haugen with Mr. Sabath.
Mr. Rowbottom with Mr. Douglass of Massachusetts.
Mr. Blackburn with Mr. Fitzpatrick.
Mr. Hogg with Mr. Vinson of Georgia.
Mr. Morgan with Mr. Rutherford.
Mr. Elliott with Mr. Mooney.
Mr. Bohn with Mr. Bloom.
Mr. Fort with Mr. Spearing.
Mr. Harcourt J. Pratt with Mr. Mead.
Mr. Brigham with Mr. Kunz.
Mr. Golder with Mrs. Owen.
Mr. Wyant with Mr. Sullivan of New York.
Mr. Dyer with Mr. Greenwood.
Mr. Stobbs with Mr. Doyle.
Mr. Kiess with Mr. Sirovich.
Mr. Manlove with Mr. Igoe.
Mr. Kendall of Pennsylvania with Mr. Montague.

The result of the vote was announced as above recorded.

The doors were opened.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (S. 3493) to provide for the appointment of an additional circuit judge for the third judicial circuit, with Mr. HOOPER in the chair.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, an additional circuit judge for the third judicial circuit.

Mr. O'CONNOR of Louisiana. Will the gentleman yield?

Mr. GRAHAM. I yield.

Mr. O'CONNOR of Louisiana. Mr. Chairman and members of the committee, I want to clear up a misapprehension that exists in the minds of many Members on the minority side. I would like to ask the chairman of the Committee on the Judiciary if he intends to call up the bill providing for a judge in the fifth judicial circuit immediately after the consideration of the present bill?

Mr. GRAHAM. Absolutely. That is the intention, immediately after this bill is considered.

The CHAIRMAN. The Clerk will read the bill for amendment.

The Clerk read the bill for amendment.

Mr. COCHRAN of Missouri. Mr. Chairman, I move to strike out the last word. The chairman of the Committee on the Judiciary paid a high compliment to-day to the gentleman from West Virginia [Mr. BACHMANN] in reference to his great labor in gathering statistics concerning the work in the various district and circuit courts. I would like to ask the gentleman from West Virginia as to the conditions he found in this circuit.

Mr. BACHMANN. There is no question but what they need some relief in the Third Circuit Court of Appeals and the Fifth Circuit Court of Appeals because of the amount of work pending in those circuits.

Mr. COCHRAN of Missouri. You say there is no question but that an extra circuit judge is needed in that circuit?

Mr. BACHMANN. There is no doubt about it.

Mr. COCHRAN of Missouri. Did the conference of senior circuit judges recommend in favor of this additional judge?

Mr. BACHMANN. The last conference of senior circuit judges recommended an additional judge for the Fifth Circuit Court of Appeals.

Mr. COCHRAN of Missouri. How about the third circuit?

Mr. BACHMANN. They did not make any recommendation for the third circuit, but when we got into the matter and examined the work in that circuit it was the opinion of the

committee that that circuit needed relief as much as the fifth circuit.

Mr. COCHRAN of Missouri. The reason I ask these questions is that I know the committee has reported a bill providing for an additional district judge in the eastern district of Missouri, and I doubt whether there is a necessity for such additional judge.

Mr. BACHMANN. This is not a bill for an additional district judge.

Mr. COCHRAN of Missouri. I understand that, but I am calling attention to the fact that the committee has reported a bill providing for an additional district judge in my district, and I have no information that we require another judge.

Mr. BACHMANN. For what district?

Mr. COCHRAN of Missouri. For the eastern district of Missouri, and I will say further, I have never received one letter of any kind, and I am in touch with my people, which would indicate that such an additional district judge is needed.

Mr. BACHMANN. There is a member on the Judiciary Committee from the State of Missouri who is familiar with the situation and knows about the situation in Missouri.

Mr. COCHRAN of Missouri. I do not think the gentleman from my State who is on the committee knows anything more about conditions than I do.

Mr. CRISP. Mr. Chairman, I rise in opposition to the pro forma amendment. I am going to take only a moment to say that I am in favor of this bill. I am in favor of the strict enforcement of the prohibition law, but I could not, with the views I hold, conscientiously vote for the commissioner bill which the House has just considered and passed. In my opinion, it denies defendants fair, impartial jury trials, which is an inalienable American right. However, I am in favor of having as great a number of Federal judges to properly and speedily enforce the prohibition law as the administration may request. I will vote for the bills which provide additional judges in the districts which, according to the statistics gathered by the gentleman from West Virginia [Mr. BACHMANN] need them.

Mr. O'CONNOR of New York. This bill is not intended exclusively for the enforcement of the prohibition law.

Mr. CRISP. I understand it is not, and I want to say to my friend from New York that I am not just for the enforcement of the prohibition law, but I am for the enforcement of all statutes of the United States of a criminal nature. [Applause.]

The pro forma amendment was withdrawn.

Mr. O'CONNOR of New York. Mr. Chairman, I move to strike out the last two words.

Mr. GRAHAM. Mr. Chairman——

The CHAIRMAN. The Chair will recognize the gentleman from Pennsylvania, the chairman of the committee.

Mr. GRAHAM. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The gentleman from New York has made a motion to amend which takes precedence over the gentleman's motion. The Chair recognized the gentleman from Pennsylvania as chairman of the committee, but he was mistaken in doing that. The Chair recognizes the gentleman from New York.

Mr. O'CONNOR of New York. Mr. Chairman, it is just such tactics as displayed by the chairman of the Judiciary Committee just now that compel me for the first time in four Congresses, I believe, to make a point of no quorum. All day yesterday and to-day we suffered under the same tactics. Agreements to yield time, positive promises to yield for amendments, vows that no "steam-roller" methods would be used were all violated, and often with a sneer. No majority can endure that treats a minority so contemptuously. A majority of to-day is the minority of to-morrow.

The speech of the gentleman from Georgia [Mr. CRISP] typifies the confusion which exists about this and similar bills. This bill for an additional circuit judge in the third circuit has nothing whatever to do with prohibition. The creation of an additional circuit judge in any district has not been recommended in any sense whatsoever by the Law Enforcement Commission or by anyone in connection with the enforcement of the prohibition law.

But the clever, astute way to pass certain bills in this House is to wave the "bloody shirt" of prohibition. We have seen that done all day yesterday and particularly to-day. At 4 o'clock this afternoon that iniquitous bill to let Federal commissioners "try" criminal cases would have been defeated overwhelmingly. Suddenly there appeared, like a specter, out of the mists of the Appropriations Committee rooms the gentleman from Michigan [Mr. CRAMTON]. With bloody shirt in hand he took the well of the House for only three minutes. He did not discuss the merits of the bill. Right or wrong, unfair or un-American, the bill should be supported by the "drys" because their votes would be interpreted "back home" as prohibition votes. It was common gossip on the floor that the telephones in the cloakrooms were clogged with calls for Members who were consistently reputed as dry. Page boys were arrayed in rank and file before the Speaker's rostrum seeking the called ones.

The orders were out. The generals on the other end of the wires, McBride and Cannon and the true Wilson, were directing their armies. In one-half hour the "enemy" had been met and was theirs. Men who had made passionate speeches opposing the bill voted in its favor and then slunk from the Hall of Congress. A majority of patriots, interested in preserving the institutions of their land, had been turned into a routed army. Quo vadis?

Now, gentlemen, an additional circuit judge has not been recommended by anybody in authority in the third circuit, not even by the council of judges. The committee states that it circularized the judges of that circuit. There is no question but that the gentleman from West Virginia [Mr. BACHMANN] did a good piece of work in analyzing congestion in all the Federal courts; but he did it gratuitously. It was not authoritative. He sent out for statistics, I understand, and they came in from the interested parties, and on the basis of those statistics he said, "Here they need a judge, there they need a judge, and here they need a judge," and then the committee outlined a program for additional circuit and district judges.

The first report of that erudite Law Enforcement Commission recommended as the only solution of the prohibition question more judges and more judges. I need not supplement the ridicule heaped on that report by the press. But the commission was not talking about circuit judges. They asked for district judges.

When this bill was before the Rules Committee there was considerable hesitation to include these additional judge bills, and again when the rule came on the floor the gentleman from Pennsylvania, the chairman of the Judiciary Committee, denounced the rule because of the inclusion of some judges and the exclusion of some others, and because he did not seem to know how to remedy the wrong done to him I moved to recommit the rule, but my motion was held by the Speaker to be out of order.

Now, gentlemen, there is a limit to this somersaulting. We have seen flops and flops here yesterday and to-day on the bills we have passed. We have even seen Members take the floor and make speeches against a bill and then stand up and vote for it. Their "master's voice" spoke in the nick of time.

When these judge bills came out I knew what was going to happen. It was understood that the bill to create an additional circuit judge in the fifth circuit, which includes Texas, would be called up first. That has not been done, and cleverly so.

I am opposed to any more Federal judges. That has been my unyielding position for seven years in this House. I am a Democrat and because I am a Democrat I am opposed to any Republican foreigner jurist coming into a State that he has probably never visited before, the traditions and atmospheres of which he has no comprehension, and administering the law affecting the welfare of the citizens and the communities of that State. He is an alien in that State. How Democrats from the South can vote for any additional Federal judges after what that glorious part of our country has suffered at the hands of the iniquitous Federal judicial system is beyond my comprehension. It is repugnant to all my ideas of State rights. I maintain that the Democrats from the State of New York, who have consistently opposed additional Federal judges, are the real Democrats of the Nation.

I understand, however, that the Texas judgeship was coming up first, but to my surprise the gentleman from Pennsylvania [Mr. GRAHAM] called up the Pennsylvania judgeship, the addition to his own district, first. Now, there is no official request whatsoever for an additional judge in that district. I realized that if I made a point of no quorum after the Pennsylvania judgeship had been disposed of, my point of order would be welcomed by the Republicans and the House would adjourn without taking up the Texas judgeships. The switch in the order of procedure was clever. In view of that manipulation, however, I have no intention of being so unfair to the men from the Southern States who have so far forgotten their Democratic principles that they want an additional Republican foreign Federal judge to oppose their desires, however unthinking I may believe them to be. I do not therefore intend to make the point of no quorum after you have jammed through the Pennsylvania judge bill. If I did, it would succeed. There would be no effort to keep you here in the House just to pass your southern circuit judgeship bill. That is the double-dealing

and the somersaulting that is going on in this body and I feel I would be remiss if I did not speak my sincere convictions concerning it.

The CHAIRMAN. The time of the gentleman from New York has expired.

The pro forma amendment was withdrawn.

Mr. GRAHAM. Mr. Chairman, I move that all debate on the bill and all amendments thereto do now close.

The question was taken; and on a division (demanded by Mr. O'CONNOR of New York), there were—ayes 113, noes 7.

So the motion was agreed to.

Mr. GRAHAM. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the recommendation that the bill do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker pro tempore [Mr. TILSON] having resumed the chair, Mr. HOOPER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (S. 3493) to provide for the appointment of an additional circuit judge for the third judicial circuit, had directed him to report the same back to the House with the recommendation that the bill do pass.

Mr. GRAHAM. Mr. Speaker, I move the previous question on the bill to final passage.

The previous question was ordered.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and on a division (demanded by Mr. O'CONNOR of New York) there were—ayes 145, noes 8.

So the bill was passed.

On motion of Mr. GRAHAM, a motion to reconsider the vote by which the bill was passed was laid on the table.

Mr. O'CONNOR of New York. Mr. Speaker, I ask unanimous consent to address the House for one minute.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. O'CONNOR of New York. Mr. Speaker, I could have made the point of no quorum and a quorum might not have developed. I want it noted in the RECORD that something has been done for unemployment. A new job has been found for a distinguished Republican in Pennsylvania. [Laughter and applause.]

ADDITIONAL CIRCUIT JUDGE FOR THE FIFTH JUDICIAL CIRCUIT

Mr. GRAHAM. Mr. Speaker, I call up the bill (S. 1906) for the appointment of an additional circuit judge for the fifth judicial circuit, and I ask unanimous consent that the bill be considered in the House as in Committee of the Whole.

The SPEAKER pro tempore. The gentleman from Pennsylvania calls up the bill S. 1906 and asks unanimous consent that it be considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, an additional circuit judge for the fifth judicial circuit.

Mr. LAGUARDIA. Mr. Speaker, is the bill now to be read for amendment?

The SPEAKER pro tempore. The Clerk will read the bill for amendment.

The Clerk read the bill.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

ENROLLED BILLS SIGNED

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 11282. An act to extend the times for commencing and completing the construction of a bridge across the Mississippi River at or near Tenth Street in Bettendorf, State of Iowa;

H. R. 11547. An act to provide for the erection of a marker or tablet to the memory of Joseph Hewes, signer of the Declaration of Independence, Member of the Continental Congress, and patriot of the Revolution, at Edenton, N. C.;

H. R. 11965. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes; and

H. R. 12302. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The SPEAKER announced his signature to enrolled bills and a joint resolution of the Senate of the following titles:

S. 108. An act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce;

S. 3272. An act to authorize the dispatch from the mailing post office of metered permit matter of the first class, prepaid at least 2 cents but not fully prepaid, and to authorize the acceptance of third-class matter without stamps affixed in such quantities as may be prescribed;

S. 3531. An act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes;

S. 3599. An act to provide for the classification of extraordinary expenditures contributing to the deficiency of postal revenues; and

S. J. Res. 167. Joint resolution to clarify and amend an act entitled "An act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes," approved March 2, 1927.

BILLS PRESENTED TO THE PRESIDENT

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President for his approval bills and a joint resolution of the House of the following titles:

H. R. 323. An act for the relief of Clara Thurnes;

H. R. 940. An act for the relief of James P. Hamill;

H. R. 970. An act to amend section 6 of the act of May 28, 1896;

H. R. 1186. An act to amend section 5 of the act of June 27, 1906, conferring authority upon the Secretary of the Interior to fix the size of farm units on desert-land entries when included within national reclamation projects;

H. R. 1559. An act for the relief of John T. Painter;

H. R. 3144. An act to amend section 601 of subchapter 3 of the Code of Laws for the District of Columbia;

H. R. 4849. An act to provide for the purchase of a bronze bust of the late Lieut. James Melville Gilliss, United States Navy, to be presented to the Chilean National Observatory;

H. R. 5662. An act providing for depositing certain moneys into the reclamation fund;

H. R. 9123. An act for the relief of Francis Linker;

H. R. 9557. An act to create a body corporate by the name of the "Textile Foundation";

H. R. 9996. An act to amend the act entitled "An act authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia," approved February 11, 1929;

H. R. 10037. An act to amend the act entitled "An act making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1929, and for other purposes," approved May 16, 1928;

H. R. 10117. An act authorizing the payment of grazing fees to E. P. McManigal;

H. R. 10480. An act to authorize the settlement of the indebtedness of the German Reich to the United States on account of the awards of the Mixed Claims Commission, United States and Germany, and the costs of the United States army of occupation;

H. R. 11228. An act granting the consent of Congress to the State of Illinois to construct a bridge across the Rock River south of Moline, Ill.;

H. R. 11240. An act to extend the times for commencing and completing the construction of a bridge across the Monongahela River at Pittsburgh, Allegheny County, Pa.;

H. R. 11282. An act to extend the times of commencing and completing the construction of a bridge across the Mississippi River at or near Tenth Street in Bettendorf, State of Iowa;

H. R. 11403. An act to amend an act entitled "An act to create a revenue in the District of Columbia by levying tax upon all dogs therein, to make such dogs personal property, and for other purposes," as amended;

H. R. 11435. An act granting the consent of Congress to the city of Rockford, Ill., to construct a bridge across the Rock River at Broadway in the city of Rockford, Winnebago County, State of Illinois;

H. R. 11547. An act to provide for the erection of a marker or tablet to the memory of Joseph Hewes, signer of the Declaration of Independence, member of the Continental Congress, and patriot of the Revolution, at Edenton, N. C.;

H. R. 12013. An act to revive and equalize the rate of pension to certain soldiers, sailors, and marines of the Civil War, to certain widows, former widows of such soldiers, sailors, and marines, and granting pensions and increase of pensions in certain cases;

H. R. 12131. An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct, maintain, and operate a free highway bridge across the Allegheny River at or near Kittanning, Armstrong County, Pa.; and

H. J. Res. 282. Joint resolution authorizing the appointment of an envoy extraordinary and minister plenipotentiary to the Union of South Africa.

ADJOURNMENT

Mr. GRAHAM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 19 minutes p. m.) the House adjourned until to-morrow, Thursday, June 5, 1930, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Thursday, June 5, 1930, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON FLOOD CONTROL

(10 a. m.)

To consider projects to control the flood waters of the Mississippi River.

COMMITTEE ON THE DISTRICT OF COLUMBIA—SUBCOMMITTEE ON INSURANCE AND BANKING

(10.30 a. m.)

Insurance code for the District of Columbia (H. R. 3941).

To require life-insurance companies to maintain reserves (H. R. 12035).

To amend the workmen's compensation act (S. 3653).

COMMITTEE ON BANKING AND CURRENCY

(10.30 a. m.)

To authorize the Committee on Banking and Currency to investigate chain and branch banking (H. Res. 141).

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

Authorizing the Secretary of the Navy to accept, without cost to the Government of the United States, a lighter-than-air base near Sunnyvale, in the county of Santa Clara, State of California, and construct necessary improvements thereon (H. R. 6810).

Authorizing the Secretary of the Navy to accept a free site for a lighter-than-air base at Camp Kearny, near San Diego, Calif., and construct necessary improvements thereon (H. R. 6808).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. BACHMANN: Committee on the Judiciary. S. 1792. An act to provide for the appointment of an additional district judge for the southern district of California; without amendment (Rept. No. 1767). Referred to the Committee of the Whole House on the state of the Union.

Mr. BACHMANN: Committee on the Judiciary. H. R. 11623. A bill to provide for the appointment of an additional district judge for the southern district of Texas; without amendment (Rept. No. 1768). Referred to the Committee of the Whole House on the state of the Union.

Mr. LUCE: Committee on the Library. H. R. 12696. A bill authorizing an appropriation for the purchase of the Vollbehr collection of incunabula; without amendment (Rept. No. 1769). Referred to the Committee of the Whole House on the state of the Union.

Mr. McLEOD: Committee on the District of Columbia. H. R. 10742. A bill to amend section 8 of the act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, approved March 4, 1913; with amendment (Rept. 1770). Referred to the House Calendar.

Mr. RANSLEY: Committee on Military Affairs. S. 4108. An act to provide for reimbursement of appropriations for expenditures made for the upkeep and maintenance of property of the United States under the control of the Secretary of War, used or occupied under license, permit, or lease; without amendment (Rept. No. 1772). Referred to the Committee of the Whole House on the state of the Union.

Mr. ARENTZ: Committee on Indian Affairs. H. R. 11443. A bill to provide for an Indian village at Elko, Nev.; without amendment (Rept. No. 1773). Referred to the Committee of the Whole House on the state of the Union.

Mr. SANDERS of Texas: Committee on Naval Affairs. S. 1721. An act directing the retirement of acting assistant surgeons of the United States Navy at the age of 64 years; with amendment (Rept. No. 1775). Referred to the Committee of the Whole House on the state of the Union.

Mrs. KAHN: Committee on Military Affairs. H. R. 7929. A bill providing retirement for persons who hold licenses as navigators or engineers who have reached the age of 64 years and who have served 25 or more years in the Army Transport Service; with amendment (Rept. No. 1776). Referred to the Committee of the Whole House on the state of the Union.

Mr. WAINWRIGHT: Committee on Military Affairs. S. 465. An act to give war-time rank to retired officers and former officers of the United States Army; without amendment (Rept. No. 1777). Referred to the House Calendar.

Mr. COOPER of Ohio: Committee on Interstate and Foreign Commerce. S. 3845. An act to amend an act entitled "An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto," approved February 17, 1911, as amended March 4, 1915, June 26, 1918, and June 7, 1924; with amendment (Rept. No. 1786). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. IRWIN: Committee on Claims. H. R. 8096. A bill for the relief of Alvina Hollis; with amendment (Rept. No. 1766). Referred to the Committee of the Whole House.

Mr. CLARK of North Carolina: Committee on Claims. H. R. 3163. A bill for the relief of heirs of Jacob D. Hanson; with amendment (Rept. No. 1771). Referred to the Committee of the Whole House.

Mr. WURZBACH: Committee on Military Affairs. S. 3712. An act to establish a military record for Charles Morton Wilson; with amendment (Rept. No. 1774). Referred to the Committee of the Whole House.

Mr. WURZBACH: Committee on Military Affairs. H. R. 1157. A bill for the relief of Edward F. Weiskopf; without amendment (Rept. No. 1778). Referred to the Committee of the Whole House.

Mr. WOODRUFF: Committee on Naval Affairs. H. R. 12077. A bill for the relief of P. Jean des Garennes; without amendment (Rept. No. 1779). Referred to the Committee of the Whole House.

Mr. HALE: Committee on Naval Affairs. S. 1683. An act for the relief of John Heffron; without amendment (Rept. No. 1780). Referred to the Committee of the Whole House.

Mr. DRANE: Committee on Naval Affairs. S. 2272. An act for the relief of Harold F. Swindler; without amendment (Rept. No. 1781). Referred to the Committee of the Whole House.

Mr. BURDICK: Committee on Naval Affairs. S. 2608. An act for the relief of William C. Rives; without amendment (Rept. No. 1782). Referred to the Committee of the Whole House.

Mr. VINSON of Georgia: Committee on Naval Affairs. S. 2721. An act to provide for the advancement on the retired list of the Navy of Frederick L. Caudle; without amendment (Rept. No. 1783). Referred to the Committee of the Whole House.

Mr. COYLE: Committee on Naval Affairs. S. 3045. An act for the relief of Walter P. Crowley; without amendment (Rept. No. 1784). Referred to the Committee of the Whole House.

Mr. WOODRUFF: Committee on Naval Affairs. S. 3648. An act to correct the naval record of Edward Earle; without amendment (Rept. No. 1785). Referred to the Committee of the Whole House.

Mr. SHAFFER of Virginia: Committee on War Claims. H. R. 10562. A bill for the relief of John Sanford Tillotson; without amendment (Rept. No. 1787). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, the Committee on Military Affairs was discharged from the consideration of the bill (H. R. 12734) granting a pension to Hugo Heidinger, and the same was referred to the Committee on Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DENISON: A bill (H. R. 12759) for the retirement of employees of the Panama Canal and the Panama Railroad Co., on the Isthmus of Panama, who are citizens of the United States; to the Committee on Interstate and Foreign Commerce.

By Mr. HAWLEY: A bill (H. R. 12760) to increase the salary of the Commissioner of Customs; to the Committee on Ways and Means.

By Mr. REECE: A bill (H. R. 12761) to repeal the provision of the War Department appropriation act of February 28, 1929, relating to the number of private mounts of officers of the Army; to the Committee on Military Affairs.

By Mr. LEECH: A bill (H. R. 12762) for an increase in pay of the enlisted men of the United States Navy; to the Committee on Naval Affairs.

By Mr. CAMPBELL of Pennsylvania (by request): A bill (H. R. 12763) to provide for the nationalization of legal-tender money without interest secured by community noninterest bearing 25-year bonds for public improvements, buildings, waterworks, utilities, market roads, employment of unemployed, and for any or all community needs of the United States; to the Committee on Ways and Means.

By Mr. McLEOD: Resolution (H. Res. 238) that the House insists upon its amendments to Senate bill 2370; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ANDRESEN: A bill (H. R. 12764) granting an increase of pension to John J. Agnew; to the Committee on Pensions.

Also, a bill (H. R. 12765) granting a pension to James A. Humphreys; to the Committee on Pensions.

Also, a bill (H. R. 12766) granting a pension to Robert B. Swenson; to the Committee on Pensions.

By Mr. BEERS: A bill (H. R. 12767) granting an increase of pension to Sarah J. Rowe; to the Committee on Invalid Pensions.

By Mr. BRAND of Ohio: A bill (H. R. 12768) granting a pension to Cora Riley; to the Committee on Invalid Pensions.

By Mr. CARTWRIGHT: A bill (H. R. 12769) granting a pension to Isabelle H. Redfield; to the Committee on Invalid Pensions.

By Mr. CELLER: A bill (H. R. 12770) for the relief of Samuel B. Schweitzer; to the Committee on Claims.

By Mr. CONNERY: A bill (H. R. 12771) for the relief of Herbert E. Robbins; to the Committee on Military Affairs.

By Mr. ESTEP: A bill (H. R. 12772) granting an increase of pension to Mary Wagner; to the Committee on Invalid Pensions.

By Mr. GREEN: A bill (H. R. 12773) granting a pension to Mary Ellen Sheets; to the Committee on Invalid Pensions.

By Mr. GUYER: A bill (H. R. 12774) granting a pension to Grace O. Barmore; to the Committee on Pensions.

Also, a bill (H. R. 12775) granting a pension to Rosa E. Harmon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12776) granting an increase of pension to Cordelia Roberts; to the Committee on Invalid Pensions.

By Mr. HARTLEY: A bill (H. R. 12777) for the relief of the Peerless Tube Co.; to the Committee on Claims.

By Mr. KENDALL of Pennsylvania: A bill (H. R. 12778) granting an increase of pension to Rosetta Minor; to the Committee on Invalid Pensions.

By Mr. KOPP: A bill (H. R. 12779) granting a pension to Laura M. Wallace; to the Committee on Invalid Pensions.

By Mr. LANKFORD of Virginia: A bill (H. R. 12780) for the relief of Mrs. J. J. Bradshaw; to the Committee on Claims.

By Mr. LINTHICUM: A bill (H. R. 12781) to authorize the Secretary of War to donate certain bronze cannon to the Maryland Society, Daughters of the American Revolution for use at Fort Frederick, Md.; to the Committee on Military Affairs.

By Mr. LUDLOW: A bill (H. R. 12782) granting an increase of pension to Eliza B. Brooks; to the Committee on Invalid Pensions.

By Mr. MAPES: A bill (H. R. 12783) for the relief of James J. McBarnes; to the Committee on Military Affairs.

By Mrs. McCORMICK of Illinois: A bill (H. R. 12784) granting a pension to Grace Fay Lobben; to the Committee on Pensions.

By Mr. SEGER: A bill (H. R. 12785) granting an increase of pension to Catherine French; to the Committee on Invalid Pensions.

By Mr. WARREN: A bill (H. R. 12786) granting a pension to Kempie Belanga; to the Committee on Pensions.

By Mr. WELCH of California: A bill (H. R. 12787) granting a pension to Ned Mitchell Harrison; to the Committee on Pensions.

By Mr. LINTHICUM: Resolution (H. Res. 237) to pay Elizabeth Williams, widow of John W. Williams, six months' compensation and an additional $250 to defray funeral expenses and last illness of said John W. Williams; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

7446. By Mr. BRIGGS: Telegram of F. W. Kitcher, secretary Brotherhood of Railway Steamship Clerks, No. 67, Palestine, Tex., urging adoption of Couzens joint resolution, suspending consolidation of railroads; to the Committee on Interstate and Foreign Commerce.

7447. Also, telegram of G. M. Murray, Galveston Division, No. 659, Order of Railway Conductors, Galveston, Tex., urging adoption of Couzens joint resolution, providing for temporary suspension of railroad consolidation; to the Committee on Interstate and Foreign Commerce.

7448. Also, telegram of C. E. Combs, secretary, Galveston, Tex., urging adoption of Couzens joint resolution, suspending consolidation of railroads; to the Committee on Interstate and Foreign Commerce.

7449. Also, telegram of A. K. McKeitham, secretary Division 77, Order of Railway Conductors, Palestine, Tex., urging adoption of Couzens joint resolution, suspending consolidation of railroads; to the Committee on Interstate and Foreign Commerce.

7450. Also, telegram of James H. Phipps, secretary-treasurer Galveston Chapter Reserve Officers' Association, urging the adoption of House bill 3592, introduced to remove disqualification of lawyers who are members of Officers' Reserve to practice before Treasury Board of Tax Appeals; to the Committee on Military Affairs.

7451. By Mr. CELLER: Resolution of the Federation of Jewish Women's Organizations (Inc.) of Greater New York, protesting proposed immigration legislation contained in House bills 10669 and 11876; to the Committee on Immigration and Naturalization.

7452. By Mr. CLARKE of New York: Petition of Woman's Christian Temperance Union, Hancock, N. Y., submitted by Mrs. F. L. Lipp, favoring Federal supervision of motion pictures; to the Committee on Interstate and Foreign Commerce.

7453. Also, petition of Woman's Christian Temperance Union, Binghamton, N. Y., submitted by Mrs. C. L. Forte, favoring Federal supervision of motion pictures; to the Committee on Interstate and Foreign Commerce.

7454. By Mr. GUYER: Resolution of the Miami County Bankers' Association, Miami County, Kans., protesting against the enactment of House bill 7404, to increase the maximum limitation on postal savings deposits; to the Committee on the Post Office and Post Roads.

7455. Also, petition of citizens of Franklin County, Kans., protesting against participation by the United States in any international conference looking to a revision of the calendar; to the Committee on Foreign Affairs.

7456. By Mr. KVALE: Petition of N. A. Simonson, president Izaak Walton League of America, Hanley Falls, Minn., urging prompt action on Senate bill 941; to the Committee on Interstate and Foreign Commerce.

7457. By Mr. LINTHICUM: Petition of J. H. Mason Knox, jr., chief Bureau of Child Hygiene of Baltimore, urging that the three unemployment bills, S. 3059, 3060, and 3061, have favorable consideration of the House; to the Committee on the Judiciary.

7458. Also, petition of the Baltimore Retail Druggists, of Baltimore, Md., urging early action in the House on Capper-Kelly bill, H. R. 11; to the Committee on Interstate and Foreign Commerce.

7459. Also, petition of Catholic Daughters of America, Gaithersburg, Md., protesting against passage of Capper-Robsion education bill; to the Committee on Education.

7460. Also, petition of Lyon, Conklin & Co. (Inc.), Baltimore, Md., indorsing flexible provision of the tariff bill; to the Committee on Ways and Means.

7461. Also, petition of Daughters of the American Revolution, Baltimore, Md., urging early consideration of immigration measure, Senate bill 51; to the Committee on Immigration and Naturalization.

7462. By Mr. HENRY T. RAINEY: Resolution of Calhoun County (Ill.) Farm Bureau, that the membership respectfully request that WLS, "The Voice of Agriculture," be given a clear channel on a favorable wave length; to the Committee on the Merchant Marine and Fisheries.

7463. By Mr. SWANSON: Petition of Woman's Christian Temperance Union of Little Sioux, Iowa, favoring Federal supervision of motion pictures in interstate and international commerce; to the Committee on Interstate and Foreign Commerce.

7464. By Mr. YATES: Petition of S. B. Wilson, of the law firm of Wilson & Robinson, of Ashland, Ky., requesting the passage of House bill 9547; to the Committee on the Judiciary.

7465. Also, petition of Thomas H. MacRae, president MacRae Blue Book, 18 East Huron Street, Chicago, protesting the passage of House bill 11096, relative to postal rates; to the Committee on the Post Office and Post Roads.

7466. Also, petition of Arthur G. Smith, president Spic Laboratories (Inc.), 325 West Huron Street, Chicago, Ill., protesting the passage of House bill 11096; to the Committee on the Post Office and Post Roads.

7467. Also, petition of Charles von Weller, president of the Von Weller-Lyon Co., 570 West Monroe Street, Chicago, Ill., protesting the passage of House bill 11096, relative to certain postal rates; to the Committee on the Post Office and Post Roads.

7468. Also, petition of O. R. Geuther, president of Marshall-Jackson Co., 24–26 South Clark Street, Chicago, Ill., protesting the passage of House bill 11096, stating it is his belief that the above bill would injure all business; to the Committee on the Post Office and Post Roads.

SENATE

THURSDAY, *June 5, 1930*

(Legislative day of Thursday, May 29, 1930)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 1906. An act for the appointment of an additional circuit judge for the fifth judicial circuit; and

S. 3493. An act to provide for the appointment of an additional circuit judge for the third judicial circuit.

The message also announced that the House insisted upon its amendments to the joint resolution (S. J. Res. 49) to provide for the national defense by the creation of a corporation for the operation of the Government properties at and near Muscle Shoals, in the State of Alabama, and for other purposes, disagreed to by the Senate; agreed to the conference requested by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. RANSLEY, Mr. WURZBACH, Mr. REECE, Mr. QUIN, and Mr. FISHER were appointed managers on the part of the House at the conference.

The message returned the following bills to the Senate in compliance with its request:

S. 4442. An act relating to suits for infringement of patents where the patentee is violating the antitrust laws; and

H. R. 12205. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

ENROLLED BILLS SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 11965. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1931, and for other purposes; and

H. R. 12302. An act granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

CALL OF THE ROLL

Mr. FESS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Allen	Frazier	Kendrick	Sheppard
Ashurst	George	Keyes	Shipstead
Barkley	Gillett	McCulloch	Shortridge
Bingham	Glass	McKellar	Simmons
Blaine	Glenn	McMaster	Smoot
Blease	Goff	McNary	Steiwer
Borah	Goldsborough	Metcalf	Stephens
Bratton	Gould	Moses	Sullivan
Brock	Greene	Norbeck	Swanson
Brookhart	Hale	Norris	Thomas, Okla.
Broussard	Harris	Nye	Trammell
Capper	Harrison	Oddie	Tydings
Connally	Hatfield	Overman	Vandenberg
Copeland	Hayden	Patterson	Walsh, Mass.
Couzens	Hebert	Phipps	Walsh, Mont.
Cutting	Heflin	Pine	Waterman
Dale	Howell	Ransdell	Watson
Deneen	Johnson	Robinson, Ind.	Wheeler
Fess	Jones	Robsion, Ky.	

Mr. SHEPPARD. I desire to announce that the Senator from Utah [Mr. KING], the Senator from South Carolina [Mr. SMITH], and the Senator from Florida [Mr. FLETCHER] are necessarily detained by illness.

The VICE PRESIDENT. Seventy-five Senators have answered to their names. A quorum is present.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution of the executive committee of the Department of the District of Columbia, American Legion, urging the Senate not to ratify the treaty for the limitation and reduction of naval armament, signed at London on April 22, 1930, and to build a navy to meet all requirements, which was referred to the Committee on Foreign Relations.

He also laid before the Senate telegrams from Marie Lessey, of Royal Oak, Mich., and the Congress of Hungarian Societies and Churches, of Pittsburgh and vicinity, in the State of Pennsylvania, felicitating the Senate on the tenth anniversary of the treaty of Trianon—June 4, 1930—for its action in not ratifying the said treaty, and also favoring protection for the Hungarian nation, which were referred to the Committee on Foreign Relations.

He also laid before the Senate a letter and telegrams in the nature of petitions from the pastor, chief elder, and members of the Hungarian Reformed Church, of McKeesport, Pa.; the New York Hungarian Young Men's Circle and Singing Society, of New York, N. Y.; the Hungarian Civic Club, of Bridgeport, Conn., and the branch of the Hungarian Women's World League, of Youngstown, Ohio, praying, on the tenth anniversary of the treaty of Trianon, for a revision of that treaty, which dismembered Hungary, the 1,000-year-old state of central Europe, in the interest of peace and economic progress, which were referred to the Committee on Foreign Relations.

Mr. BINGHAM. Mr. President, I present and ask unanimous consent to have printed in the RECORD and referred to the Committee on Foreign Relations a telegram in the nature of a petition.

There being no objection, the telegram was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

BRIDGEPORT, CONN., *June 3, 1930.*

The SENATE OF THE UNITED STATES OF AMERICA,
Washington, D. C.:

June 4, 1930, is the tenth anniversary of the treaty of Trianon which dismembered Hungary, the 1,000-year-old state of central Europe. The treaty of Trianon was not ratified by the United States Senate. She felt the moral obligation to refuse it after it repudiated those principles of humanity and ideals of democracy which she fought for. The peace treaties were never intended to be sacrosanct. The experience of the last decade has proved that revision of the Trianon treaty is imperative if peace is to be preserved and economic progress assured. No lapse of time, no defeat of hopes will be sufficient to reconcile Hungarians to the desperate position to which the Trianon treaty has doomed them, and we will strive continually for the revision of a treaty which took no account of the Wilson principle of self-determination of peoples and which is contrary to all ideas of peace and liberty and, above all, of democracy.

FIRST MAGYAR REFORMED CHURCH OF BRIDGEPORT, CONN.

REPORTS OF COMMITTEES

Mr. STEIWER, from the Committee on Indian Affairs, to which was referred the bill (S. 2134) for the determination and payment of certain claims against the Choctaw Indians enrolled as Mississippi Choctaws, reported it with amendments and submitted a report (No. 819) thereon.